



Small Screen: **Big Debate**

**Recommendations to
Government on the future
of Public Service Media**

Statement published 15 July 2021

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1. Executive summary

The UK's broadcasting industry is facing its greatest challenge

- 1.1 **Ofcom's *Small Screen: Big Debate* review has looked at how to renew the UK's public service media ('PSM') system for the next decade.** Following our consultation in December 2020, this statement contains recommendations for action by Government and industry.
- 1.2 **UK audiences continue to benefit from incredible growth in high-quality content, available on TV and online, and provided by both public service and commercial broadcasters.** But the Covid-19 pandemic has reinforced the special importance of public service broadcasting. People sought out high-quality, trusted and accurate news, entertainment programmes and educational content to support home schooling. Its contribution to the creative economy across our four nations has never been more vital.
- 1.3 **Rapid change in the industry – driven by global commercial trends and a transformation in viewing habits – is making it harder for public service broadcasters to compete for audiences and maintain their current offer.** Since we published our consultation there has been further global consolidation, with Amazon acquiring MGM in a multibillion-dollar deal and US telecoms company AT&T merging its media division, WarnerMedia, with Discovery. While the presence of international players contributes to the success of the UK's creative economy and delivers more choice for audiences, it adds further pressure to the financial sustainability of PSM in the UK. Meanwhile connected TV platforms are increasingly intermediaries in the relationship between broadcasters and their audiences, undercutting the commercial benefits of the current regulatory model.
- 1.4 **We received over 100 responses to our consultation.** There was a wide range of views, but agreement on some fundamental issues: the importance of PSM for UK viewers and the UK economy; and the urgent need to update the PSM system to ensure that it is financially sustainable for the future.

Legislation needs to be overhauled for the digital age

- 1.5 **Public service programming remains highly valued by UK audiences.** Our research shows how important trusted and accurate national and regional news is to viewers. They also value soaps and live sports, which bring us together as a country, as well as programming which reflects the diversity across all parts of our four nations.
- 1.6 **Public service broadcasters are also central to the UK creative economy, particularly across the nations and regions.** They remain the largest commissioners of content from across the UK. Every year they spend around £3bn on new programmes in a broad range of genres. UK-commissioned content that is less commercially viable, such as regional news, or minority language and religious programmes, would not be widely made without public service broadcasters.

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- 1.7 **To secure its future, PSM needs to reach the widest possible audiences, on TV and online.** Public service broadcasters must accelerate their digital plans if they are to maintain a strong link with existing audiences, including younger viewers who increasingly turn elsewhere for entertainment and news. But the regulatory system also needs to be updated for the digital age.

A modernised set of objectives for public service media

- 1.8 **Our first recommendation to Government is that there should be a revised set of PSM objectives, supporting the transition from public service broadcasting to public service media.** New legislation should secure and strengthen its most important features: a broad range of programming that reflects all parts of the UK and the ability to engage the widest possible audiences.
- 1.9 **There should also be a new objective to support the UK's creative economy** so that it continues to flourish, generating sustainable economic value across the UK's nations and regions.

Public service media content needs to be prominent and widely available

- 1.10 **Second, we are repeating our urgent call for legislation to secure prominence for live and on-demand public service content across all major TV services and platforms.** Our evidence suggests public service broadcasters and connected TV platforms are increasingly struggling to reach commercial agreements. This reduces value for audiences, by making it harder to find PSM content on new digital platforms than on traditional TV.
- 1.11 **New rules are required to ensure that public service media is made available and prominent on popular TV platforms.** As part of this, requirements should be placed on PSM providers and platforms so audiences can find PSM content easily. We recognise that platforms also need the ability to innovate. As technology and audience habits develop, so rules need to be able to adapt to a fast-changing market.
- 1.12 **New legislation should give Ofcom monitoring and enforcement powers,** including the ability to resolve disputes, in areas such as the sharing of data or how content is attributed to the broadcaster.

Broadcasters and producers need to work together to deliver content for broadcast TV and online audiences

- 1.13 **The UK's creative industry is recognised around the world for its quality and innovation.** It has been built on effective partnerships between producers and broadcasters, and regulatory interventions have also supported this global success.
- 1.14 **The environment in which programmes are commissioned has fundamentally changed since regulation was put in place 20 years ago.** On-demand viewing has grown, content budgets for subscription services have increased and there are several multinational producers in the market. If PSM providers are to reach all audiences, they need to be able to commission content which they can deliver flexibly, both online and on broadcast TV.

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The current focus on broadcast TV must be broadened or it will limit digital strategies and stifle innovation.

- 1.15 **In practice broadcasters and producers are already adapting.** Most recently, the BBC and Channel 4 have completed content deals with producers for their broadcast TV and online services. But we are concerned that in some cases, negotiations have not moved swiftly enough.
- 1.16 **Our third recommendation is that the Government modernises legislation so the same requirements supporting independent productions apply to all broadcast TV and online PSM content.** This would include programmes exclusively shown on online services. We expect that deals will continue to adapt and we will be ready to update Ofcom's commissioning guidance once legislation is changed.

Public Service Media providers must be accountable for delivering to audiences

- 1.17 **To deliver on the new objectives for PSM in legislation, broadcasting licences will need to be modernised.** Updated requirements should cover content produced for audiences across broadcast TV and online. These will need flexibility to allow providers to innovate and respond to changes in technology and markets. But some quotas should remain, to secure important PSM programming and to safeguard the quality of traditional broadcast services for those audiences who will continue to rely on them.
- 1.18 **This more flexible approach must be underpinned by accountability and transparent reporting of performance.** Public service media providers should be required to set out clear plans to deliver their obligations and report on the outcomes. Ofcom will hold PSM providers to account, to ensure audience needs are being met. This should include imposing new requirements and issuing penalties if necessary.
- 1.19 **Ofcom is already supporting the transition to online delivery.** Commercial public service licences cannot currently include online requirements without new legislation. But as part of our performance assessment of the BBC and C4 we review their online delivery. We are already assessing the BBC's existing regulation in preparation for the Government's mid-term Charter Review and will discuss with them how our recommendations will affect the BBC Charter and Agreement. We will also consult on updating the BBC's Operating Licence. Recently the Government has published a consultation on the ownership and remit of Channel 4. We will work with Government to implement any changes they decide to make. We will also report to the Secretary of State by June 2022 on the sustainability of the Channel 3 and 5 broadcast licences.

The Public Service Media sector must continue to transform

- 1.20 **Although the legislative framework for PSM urgently needs to be modernised, this may not be enough to secure the wide-ranging benefits of PSM into the future.**
- 1.21 **The current public service providers bring decades of experience and expertise and have highly trusted brands.** They have expressed confidence in their ability to deliver PSM over the next decade, describing developments in their on-demand offerings and innovative

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programming which has already proved successful with audiences. But the commercial trends – including challenges to the traditional advertising model and the licence fee – are considerable and changes to audience behaviour require radical thinking.

- 1.22 **Part of the response must include a more ambitious and open approach to genuine, strategic partnerships between the current players and across the wider sector.** For example, Channel 4 and Sky have recently expanded their existing partnership to cover content, technology and innovation.
- 1.23 **The Government should also consider how to encourage new providers.** This could include harnessing the broad range of high-quality, UK-based original news, drama and arts programming offered outside the current PSM system by existing commercial providers such as Sky and Discovery. There could also be benefits to audiences from encouraging new providers of PSM or PSM-like content, for example on social media platforms. This could boost innovation and target specific audiences who do not connect with the current public service broadcasters on traditional platforms.
- 1.24 **We are recommending to Government that legislation should allow for new complementary PSM provision to boost the resilience and long-term sustainability of PSM.** Current legislation designates specific named channels to deliver public service broadcasting. Updated legislation should allow for complementary PSM providers to be added to the regulatory framework, to maximise policy flexibility into the future.
- 1.25 **Fiscal support might also add value for audiences in certain areas** – such as regional programming, or to help reach increasingly fragmented audiences. Many stakeholders were strongly opposed to top slicing the BBC licence fee to fund complementary PSM, saying it would weaken existing provision. But there was support for a range of incentives such as contestable funding or tax relief.

Next steps

- 1.26 **The most important recommendations in this Statement are for Government to take forward through new primary legislation.** We will support the Government in developing detailed proposals so that this can be done as quickly as possible.
- 1.27 **Ofcom will continue to deliver our existing duties.** As well as our relicensing work, we will continue to look at the effectiveness of our other regulation, including advertising, to ensure the continued success of PSM at the heart of the UK's vibrant creative economy.

Recommendations

We recommend that the Government urgently brings forward primary legislation to...

Modernise the objectives of the current system to deliver PSM content that:

- delivers social value, including high-quality trusted and accurate national and regional news and a wide range of informative and entertaining UK programming;
- brings people together for shared experiences;
- reflects the diversity of the UK;
- supports the UK creative economy, driving economic benefits across the nations and regions;
- is universally available, delivered online as well as through broadcast TV.

Update the rules for prominence to include connected TV platforms, so that:

- PSM providers are required to offer their on-demand services to popular TV platforms;
- platforms are required to include and give appropriate prominence to PSM content and to negotiate with PSM providers;
- there is an effective enforcement and dispute resolution process in place.

Update the rules on production of PSM content, so that:

- PSM requirements for commissioning from independent producers apply to both broadcast TV and online services;
- there is flexibility to change the rules in line with market trends and policy objectives.

Update the rules for PSM providers, so that:

- their requirements ensure online and broadcast TV audiences benefit from PSM;
- requirements allow each PSM provider to adapt their services to meet changing audience needs;
- PSM providers set out their plans to deliver their PSM objectives and report annually on their performance.

Allow for complementary PSM provision by:

- introducing flexibility to enable additional providers to deliver new PSM content, alongside existing PSM providers.

In addition we recommend that:

- Government examines the case for fiscal incentives which could broaden PSM provision.
- PSM providers continue to work together to develop more strategic partnerships amongst themselves and with the wider industry.
- Ofcom's regulatory role is updated to reflect new legislation, so we can hold PSM providers to account and have the flexibility to change rules in line with sector trends.

2. Introduction

In this introductory section, we:

- Summarise our *Small Screen: Big Debate* programme, including our consultation, the responses we have received from stakeholders and the work we have carried out since.
- Highlight other related work and provide an outline of each section of this statement.

Research, analysis, and consultation responses

- 2.1 Our *Small Screen: Big Debate* has looked at how to renew the UK's public service media ('PSM') system for the next decade. This work has informed the recommendations to Government set out in this statement on how our public service broadcasting system can transition to a public service media ('PSM') one.¹ A PSM system should have defined objectives that PSM providers must deliver in return for certain benefits.

Figure 1: Evidence sources that have informed this review²



¹ The existing providers of public service content considered in this statement are: the BBC, the Channel 3 licensees (ITV and STV), the Channel 4 Corporation, S4C and the Channel 5 licensee.

² Full reports and videos providing insight into the research and analysis used in this review can be found on our website.

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- 2.2 As set out in Figure 1, our analysis has been informed by the views of audiences across the UK and stakeholders both here and abroad. We have focused on why PSM matters and how current regulation can be modernised to support the sustainability of the PSM system.³ We also conducted extensive market analysis including commissioning independent reports from EY and Mediatique.
- 2.3 We published our *Small Screen: Big Debate* [consultation](#) on the future of PSM in the UK last December. We shared findings from our research and analysis and outlined options for modernising regulation to deliver PSM for audiences. We published an additional [call for evidence](#) on the relationship between the production sector and public service broadcasters to consider what if any regulation may need updating.
- 2.4 We received over 100 responses to our consultation and additional call for evidence. We published all non-confidential responses on our *Small Screen: Big Debate* website in May.⁴ Nearly all the responses supported our view that PSM is important, but new regulation is needed in light of ongoing changes in audience behaviour and technology. There was agreement on the urgent need to update the PSM system, with the public service broadcasters in particular reiterating a call for changes to secure prominence for their on-demand players.
- 2.5 Several respondents questioned the concept and scope of public service media and suggested it would need to be clearly defined in legislation. We agree with the need for clarity and consider ‘PSM’ is the best way to describe public service content delivered through a range of platforms including broadcast TV and online services. In this document we refer to public service broadcasters as PSM providers to reflect this.
- 2.6 Responses also referred to other areas of our work including diversity in broadcasting, accessibility, the regulation of local television, production in the nations and regions, media ownership and specific aspects of BBC regulation. We do not address these in detail here, but they are part of Ofcom’s ongoing work programme which is briefly discussed in **Section 10**.
- 2.7 Several respondents highlighted the important contribution that audio content from a variety of sources makes to the PSM system.⁵ They referred to the BBC’s radio and online audio services as well as the range of programming from commercial and community radio broadcasters. Ofcom has provided technical input to the [review of digital radio and audio](#) that the DCMS is currently undertaking with industry, which examines the issues facing radio in the next decade. In light of this ongoing review, we have focused our *Small Screen: Big Debate* review on audio-visual content and do not consider audio in detail in this document. We will reflect on the implications for audio regulation when the DCMS review

³ The implementation of most of our recommendations would require new legislation and so we have not carried out a full assessment of their impact. In principle, we would expect our recommendations to have a positive impact on UK citizens and consumers, including all equality groups, and on the broadcasting sector.

⁴ Responses can be found on our website [here](#). We have taken all responses into account in forming our views and recommendations, and referenced some of them in this document, where relevant.

⁵ [Premier Christian Media Trust response to consultation](#); [Radiocentre response to consultation](#); [Better Media response to consultation](#); [AudioUK response to consultation](#)

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is published, as well as in our broader BBC Operating Licence work. Any new legislation will need to consider the recommendations of the DCMS review alongside this one.

- 2.8 Some respondents highlighted the need for our review to consider the future of digital terrestrial television (DTT).⁶ Arqiva emphasised the resilience of DTT despite the growth in online services, while BT was keen for us to consider a managed transition from broadcast television to internet TV,⁷ which will require several years of planning.⁸ Though this has not been a focus of this review, we will continue to engage with Government and stakeholders on the future of the DTT platform. As part of this we will ensure that the interests of audiences not yet online and those who no longer use DTT to access PSM are protected. We expect the DTT platform to be important for audiences for at least the next decade.

About this statement

- 2.9 **Section 3** discusses the challenges for PSM and provides context for the recommendations in the rest of the document.
- 2.10 **Section 4** sets out what the PSM system should deliver in the future, considering which aspects of public service broadcasting are important for UK audiences, society and the economy.
- 2.11 **Section 5** proposes the structure for a new regulatory framework.
- 2.12 **Section 6** looks at proposals for updating legislation and regulation to ensure content is available and prominent for audiences.
- 2.13 **Section 7** considers whether updated regulation is required for content commissioning given changes in the creative economy in recent years.
- 2.14 **Section 8** sets out the need for updated PSM obligations which reflect changing audience habits and technology.
- 2.15 **Section 9** looks at further opportunities to enhance the PSM system with strategic partnerships and complementary provision.
- 2.16 **Section 10** briefly sets out next steps for Ofcom and how these link to ongoing developments in the broader UK media sector including with Government.
- 2.17 There are a number of supporting annexes on the following areas:
- a) **Annex 1:** [Ensuring PSM content remains widely available and prominent](#)
 - b) **Annex 2:** [Producing Public Service Media content](#)
 - c) **Annex 3:** [How to incentivise new provision of UK Public Service Media](#)
 - d) **Annex 4:** [Encouraging public interest content: international examples](#)
 - e) **Annex 5:** [The existing Public Service Broadcasting regulatory framework](#)

⁶ [Together TV response to consultation](#), p.1; [Digital UK response to consultation](#), p10; [Voice of the Listener and Viewer](#), p.2

⁷ IP based distribution.

⁸ [Arqiva response to consultation](#), p.2; [BT response to consultation](#), p.2.

3. Challenges facing the UK's broadcasting industry

In this section we:

- Describe how a rapidly changing market means a broad range of broadcast and online services now compete for audience attention, with public service broadcasting facing challenges from large global players with significant financial resources.
- Explain that the Covid-19 pandemic has exacerbated some of these changes while also demonstrating the continued importance of public service media.
- Summarise some of the suggestions about future funding made by respondents.

3.1 In our consultation we said technological developments, increasing competition from global players and an ongoing structural shift in audience behaviours were disrupting the UK content industry. The pace of change, in part exacerbated by the Covid-19 pandemic, shows no signs of slowing.

Audiences continue to spend more time online

3.2 UK audiences continue to benefit from incredible growth in high-quality content, available on TV and online, and provided by both public service and commercial broadcasters. A wide range of different services from social media to online gaming platforms continue to compete for audience attention. Nearly all internet users (97%) have used video-sharing services such as YouTube⁹ and these services continue to see rapid growth in popularity. TikTok's reach among UK adults grew from 5.4 million in January 2020 to 13.9 million in March 2021.¹⁰ Between 2015 and 2020, broadcast TV viewing declined by 24 minutes per person each day; at the same time viewing of subscription video on-demand services ('SVoDs') grew to 65 minutes per person each day.¹¹ Gaming is also a common pastime; in 2020, 62% of adults in the UK said they played games on an electronic device, rising to 92% of 16-24 year olds.¹²

3.3 Changing viewer habits and attitudes look set to continue. More and more people are watching content online – by September 2020, 60% of all UK households subscribed to an on-demand service, up from 49% a year earlier.¹³ Just under half (47%) of all adults who go online now consider online services to be their main way of watching TV and films, rising to around two-thirds (64%) among 18-24 year-olds.¹⁴

⁹ Ofcom, 2021. [User Experience of Potential Online Harms within Video Sharing Platforms](#), p.15.

¹⁰ Comscore MMX Multi-platform, TikTok, Age: 18+, Jan 2020 & Mar 2021, UK.

¹¹ Ofcom estimates modelled from BARB, Comscore and TouchPoints data.

¹² Ofcom, 2021. [Adults' Media Use and Attitudes Report 2020/21](#), p.9.

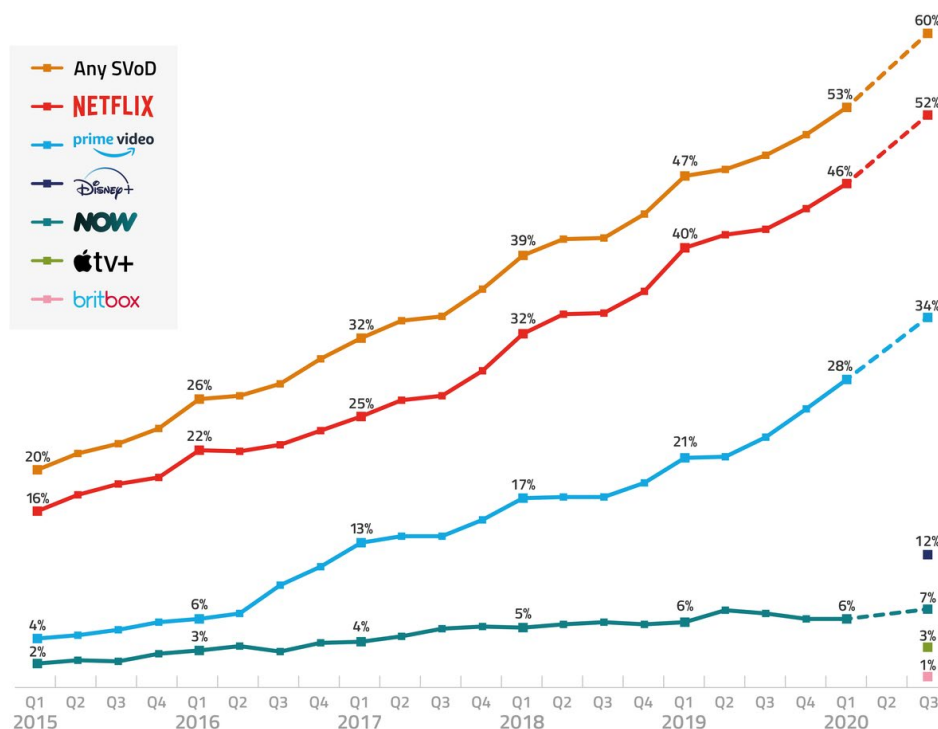
¹³ BARB Establishment Survey Q3 2019 & Q3 2020.

¹⁴ Ampere Analysis Consumer UK, age: online 18-64, 2020. Base: 4000.

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- 3.4 Our willingness to pay for services is continuing to grow. Households which subscribe to on-demand services paid for an average of 1.7 subscriptions at the end of 2020,¹⁵ rising to 2.3 when free trials and account sharing were taken into account.¹⁶ As shown in Figure 2 below, leading services Netflix (14.8 million households) and Amazon Prime Video (9.5 million) both substantially increased their subscriber bases in 2020. Disney+, which launched in the UK in February 2020, now has over 3.4 million subscribers in the UK.¹⁷

Figure 2: UK household subscription reach to SVoD services



Source: BARB Establishment Survey. Due to the Covid-19 pandemic, the BARB Establishment survey was temporarily suspended, resulting in no data collection for Q2 2020, Q4 2020 and Q1 2021.

Global players have increased competition in the content market

- 3.5 Audiences have embraced a range of technological changes that are transforming the viewing experience today. We are increasingly using algorithm driven search recommendations to help us navigate vast content libraries and watching content on a wide range of devices both inside and outside the home. These shifts in audience habits are changing the way that the content industry works and weakening the PSM providers' ability to influence what viewers watch.
- 3.6 In response to our consultation, some stakeholders such as Google, highlighted the positive contribution global services like YouTube offer PSM providers in delivering content through their search functions, increasing reach and promoting new UK talent.

¹⁵ Ampere – Market Operators data YE2020, includes all age subscribers and excludes free trials.

¹⁶ Ampere Analysis Consumer UK, age: online 18-64, Q3 2020. Base: 2000.

¹⁷ BARB Establishment Survey Q3 2020.

“Across the UK’s creative industries, YouTube and other video-sharing platforms play an important role in promoting new talent throughout the UK and globally [...]. YouTube is also well positioned to help creators reach and engage new audiences.”¹⁸ **Google**

- 3.7 However, others raised concerns that global platform operators such as Apple and Amazon, who are able to gather vast amounts of data about their audiences, hold an unfair advantage compared to PSM providers:¹⁹

“Global platforms have access to a scale of user data which drives platform economics. Data about users is highly valuable for targeted advertising, but also for product development (and, in broadcasting, for content creation and commissioning). It also underpins the quality of algorithmic recommendations, enabling platforms to offer superior user experiences.”²⁰ **Professor Catherine Johnson**

“The distribution and availability of our content is becoming more and more challenged. Global tech giants such as Amazon, Google, Facebook and Apple are increasingly the gatekeepers to public service content. These global platforms now control the interface through which viewers access British television, and therefore are able to influence what content viewers have access to, how that content is presented, and how UK broadcasters can monetise this viewing.”²¹ **Channel 4**

- 3.8 The large global companies now competing with UK PSM providers have much greater financial resources, allowing them to invest heavily in their platforms and new content – Netflix has said it intends to spend over \$17billion on content in 2021.²² As of November 2020, Netflix budgeted for £750m content spend in the UK alone, an increase of 50% on the year before, making the UK its second largest market after the US.²³ While this is great news for both UK audiences and the wider creative economy, it does present a significant challenge for PSM providers. Since 2014 the content budgets of the PSM providers have been largely stagnant (direct spend on first run programming fell from £3billion in 2014 to just over £2.8billion in 2019) and have increasingly drawn on third-party sources.²⁴
- 3.9 This increased global competition shows no signs of slowing. In recent months there have also been further significant mergers with Amazon acquiring MGM and its 4,000 film titles and 17,000 TV shows for \$8.5bn and US telecoms company AT&T merging its media

¹⁸ [Google & YouTube response to consultation](#), p.3.

¹⁹ [Ofcom’s Advisory Committee for Northern Ireland response to consultation](#), p.11.

²⁰ [Johnson, Prof C response to consultation](#), p.5.

²¹ [Channel 4 response to consultation](#), p.19.

²² Netflix, April 2021. [First quarter earnings letter to shareholders](#).

²³ Ofcom/broadcasters and presented in Ofcom’s [Media Nations 2020](#); The Guardian, 25 November 2020. [Netflix to spend \\$1bn in UK in 2020 on TV shows and films](#).

²⁴ Ofcom/broadcasters and presented in Ofcom’s [Media Nations 2020](#).

division, WarnerMedia with Discovery.²⁵ Large rivals are increasingly disrupting the relationship between broadcasters and their audiences. These developments will continue to put pressure on the financial sustainability of PSM providers and make it harder for them to compete for audiences while also maintaining their current offer.

The Covid-19 pandemic has demonstrated the important value and benefits that audiences look for in PSM

- **People used online services more than ever during the Covid-19 pandemic.** By the end of 2020, about 94% of UK homes had internet access, up from 89% in 2019.²⁶ This meant more people could access the broad range of services available online. For example, in our long running, qualitative research into adults' media use and attitudes, several participants with limited digital skills (particularly, but not exclusively, older members of the research) have embraced new technology for the first time as a result of specific needs created by the Covid-19 pandemic.²⁷
- **The Covid-19 pandemic reinforced the importance of PSM.** People sought out high-quality, trusted and accurate news to combat widespread misinformation, looked for educational content to support home schooling and turned to entertainment programmes for light relief. With national lockdowns keeping people at home in 2020, viewing increased overall but saw greater growth online than on broadcast TV. People spent an average of 58 minutes a day watching online services such as Netflix and BBC iPlayer on TV sets (25 minutes more than in 2019).²⁸ Though SVoDs benefited from the greatest audience increases, the on-demand services of PSM providers also had a record year.²⁹ At the same time, broadcast TV viewing in 2020 increased by nine minutes on average per person, per day (a 5% increase, bringing it back to 2018 levels).³⁰
- **Advertising revenue, production and spend.** The Covid-19 pandemic led to an initial steep decline in advertising revenues. ITV, Channel 4 and Channel 5 all reported cuts in content spend. The BBC identified £125m of savings across its content budgets and operating costs.³¹ The pandemic also inflated pressure on production costs, with independent producers reporting additional costs of Covid-19 compliance between 10% and 25%.³² This all added to the financial challenges faced by PSM providers, who are key contributors to programming spend in the UK. However by the end of 2020, Channel 4 Corporation had recovered well and reported a surplus of £74m.

²⁵ Amazon press release, May 2021. [Amazon and MGM have signed an agreement for Amazon to acquire MGM](#); AT&T press release, May 2021. [AT&T's WarnerMedia and Discovery, Inc. Creating Standalone Company by Combining Operations to Form New Global Leader in Entertainment](#).

²⁶ Ofcom, 2021. [Technology Tracker CATI omnibus survey - 12 February to 5 March 2021](#), KDR06; Ofcom, 2020. [Nations & Regions Technology Tracker](#), QE2. This movement should be considered as indicative only. Enforced methodology changes to the survey limit direct comparability with previous years so, while these figures could ordinarily indicate an uplift in internet access compared to previous years, the change could also be due to the change in methodology, rather than any real change in internet access.

²⁷ Ofcom, 2021. [Adults' Media Lives 2020/21](#), p.17-18.

²⁸ Ofcom estimates modelled from BARB, Comscore and TouchPoints data.

²⁹ BBC Media Centre, 20 April 2021. [Record-breaking start to 2021 for BBC iPlayer](#).

³⁰ BARB.

³¹ BBC, 2020. [BBC Group Annual Report and Accounts 2019/20](#), p.43.

³² [Broadcast Indie Survey 2021](#). For more information on broader trends affecting the production sector see [Annex 2](#).

Funding public service media is increasingly challenging

- 3.10 In our consultation, we said the need to reach audiences online and the scale of market disruption was putting increasing financial pressure on the PSM providers.
- 3.11 Between 2015 and 2019, broadcast TV advertising revenues saw a collective real-terms decline of 16%,³³ with a further 15% fall in 2020³⁴ as a result of the Covid-19 pandemic. There have been some signs of recovery in 2021 and AA/WARC have projected TV advertising revenue would grow by 9% in 2021 and 2% in 2022. However, these are insufficient to fully offset declines triggered by the pandemic or reverse the longer term structural shift away from TV advertising; Mediatique has estimated an annual decline in broadcast TV advertising revenues of approximately 2% between 2018-2024. Although the commercial PSM providers have had some success in growing advertising revenue on their on-demand services in recent years – including a 15% increase between 2015 and 2019 – the move away from TV advertising will continue to put pressure on the finances of PSM providers.³⁵

“As consumption patterns have changed and new players have emerged, funding models have changed fundamentally: ad spend has shifted from TV to digital, consumer spend on subscriptions has increased, and funds are being captured by international players. The result is a loss of funding to the providers of PSM.”³⁶ **ITN**

- 3.12 In their responses, some broadcasters raised concerns that the ban on advertising of food and drink high in fat, sugar and salt on TV before 9pm,³⁷ could have the effect of reducing substantial amounts of advertising revenue and would, in the absence of similar restrictions on online advertising “simply result in revenue flowing from TV to online.”³⁸ Other stakeholders were concerned that this negative impact on the revenue of PSM providers would reduce investment in children’s content in particular and suggested there was a lack of evidence that the policy goal of reducing childhood obesity would be achieved with the restrictions proposed. ITV also argued that the new rules would reduce the value of the regulatory benefits they receive for delivering public service content on traditional television.

³³ Ofcom/broadcasters; Ofcom, 2020. [Communications Market Report 2020](#).

³⁴ TV excluding BVOD from AA/WARC.

³⁵ Mediatique report for Ofcom, 2020. [Future models for the delivery of public service broadcasting](#), p.31, Figure 27 (CAGR Revenue growth 2014-2024). Mediatique estimated that compound annual growth broadcast TV advertising revenues between 2018 and 2024 would be -2.1%.

³⁶ [ITN response to consultation](#), p.15.

³⁷ The Government has since announced that at the end of 2022, it will simultaneously introduce a 9pm TV watershed for HFSS products and a restriction of paid-for HFSS advertising online. See GOV.UK, [Further advertising restrictions for products high in fat, salt and sugar](#).

³⁸ [Channel 4 response to consultation](#), p.32.

“This intervention will, on the evidence, make no difference to reducing childhood obesity. But it will remove a colossal amount of revenue from commercial television [...]. It will also remove significant value from the regulatory assets – DTT spectrum and linear EPG prominence – that underpin current PSB obligations, with serious consequences for the viability of the commercial PSM system.”³⁹ **ITV**

- 3.13 The BBC has also faced significant challenges to its income. According to the BBC’s Annual Reports and Accounts, in 2019/20 the BBC raised £3.52bn in revenue from the licence fee. This was a drop of nearly 5% from the year before, due to the phased reduction in Government funding of over-75s’ licences and a reduction in the number of paid TV licences.⁴⁰

Respondents views on funding models for PSM

- 3.14 Last year, [we commissioned EY to examine international PSM funding models](#) to identify options that could work in the UK. We asked stakeholders for their views about other options for future funding of PSM, or lessons that we could learn from other countries. Below we summarise their responses to help inform the debate about how commercial and publicly funded PSM models could evolve. Our review does not make recommendations about the future funding of the system. This includes funding of the BBC, which is a matter for Government and Parliament to consider.

Principles and approaches to funding

- 3.15 Some respondents were keen to emphasise their support for the European Broadcasting Union guidance⁴¹ we referenced in the consultation.⁴² This recommends that the most important principles for any funding model are: a stable and predictable source of funding, independent from political interference, fair and justifiable to the public and the market, and transparent and accountable. Some respondents also praised the mixed UK funding model,⁴³ while others highlighted the challenge for PSM providers in delivering traditional television as well as online services.⁴⁴

³⁹ [ITV response to consultation](#), p.2.

⁴⁰ BBC, 2021. [BBC Group Annual Report and Accounts 2020/21](#), p.45

⁴¹ European Broadcasting Union, 2017. [Legal focus: public funding principles for public service media](#), p.3.

⁴² [Ofcom’s Advisory Committee for Scotland response to consultation](#), p.9; [Ofcom’s Advisory Committee for Wales response to consultation](#), p.2.; [Johnson, Prof C response to consultation](#), p.8.

⁴³ [Pact response to consultation](#), p.15; [ITN response to consultation](#), p.15; [Barnett, Prof S response to consultation](#), p.5.

⁴⁴ [Johnson, Prof C response to consultation](#), p.10.

“The current mixed model for PSB funding works well in practice. The combination of licence fee (BBC) and commercially funded PSBs (ITV, Channel 4, Channel 5) helps to ensure that UK audiences get not only value for money, but also a diverse range of high-quality content.”⁴⁵ **Pact**

“It is simply not feasible to keep asking PSM organisations to do more with less, given the financial demands of running a hybrid linear/online offer.”⁴⁶ **Professor Catherine Johnson**

- 3.16 A large proportion of respondents suggested some form of contestable fund or tax relief could be used to enhance PSM content provision and encourage innovation. These are discussed in more detail in **Section 9** where we look at the potential use of incentives to encourage PSM content in future. As advertising is also a fundamental part of the PSM funding model there were also suggestions, especially from the existing PSM providers, as to how regulation could be modernised, which are referenced in **Section 10**.

Subscription models

- 3.17 There was no support for a complete subscription model for PSM. Several responses strongly opposed subscription of any form. These respondents argued subscription would prevent PSM content from being free at the point of access, risked increasing the digital divide and would undermine the universality central to the PSM system.⁴⁷

“They should also ensure PSM content remains universally available and free at the point of consumption. We therefore believe that a subscription model, for example, is not a credible option for consideration as it requires users to pay to access content and is not compatible with this principle of universality.”⁴⁸ **Digital UK**

" VLV opposes subscription as a funding model for PSB because this would undermine its universality. The UK's universal broadcasting system ensures equality whereby all citizens have access to high quality PSB content, regardless of where they live or their income. A subscription system would favour the better-off in society. It would undermine many of the key societal benefits of PSB.”⁴⁹ **Voice of the Listener and Viewer**

- 3.18 For most of the existing PSM providers, subscription already forms a limited part of their business model to supplement income. A few respondents did suggest PSM providers could benefit from additional commercial services being offered by subscription.⁵⁰ For

⁴⁵ [PACT response to consultation](#), p.15-16.

⁴⁶ [Johnson, Prof C response to consultation](#), p.10.

⁴⁷ [MG Alba response to consultation](#), p.2; [Barwise, Prof P response to consultation](#), p.4, [VLV response to consultation](#), p.27; [Media Reform Coalition response to consultation](#), p.1.

⁴⁸ [Digital UK response to consultation](#), p.17.

⁴⁹ [VLV response to consultation](#), p.27

⁵⁰ [BT response to consultation](#), p.13; [Ofcom's Advisory Committee for England response to consultation](#), p.2.

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example, the Britbox joint PSM venture or enhanced services such as ITVHub+ and All 4+, which give viewers a choice to watch content advert-free.

“Screen Scotland’s view is that while subscription is incompatible with universality, the provision of premium streaming services based on a subscription model – such as ITV Hub+ or All 4+ – is not incompatible, provided all content appears first, and for a meaningful period, ‘free to air’.”⁵¹ **Screen Scotland**

- 3.19 While there may be options for new hybrid models involving subscription in the future, these approaches raise questions about what should be widely available. If all, or much of PSM were to be delivered behind a paywall, it would be hard to reconcile with its core aim to provide universal services that bring the nation together. As we set out in our consultation, there are no examples internationally which currently use a subscription-based model to fund PSM organisations.

“Subscription models may be able to support and complement the free-to-view offer, such as Channel 4’s own All 4+ service [...] or the joint venture BritBox [...] However, these should primarily be complementary to the public service media offer – if this content was only accessible behind subscription paywalls, this would create an imbalance between those who can and cannot afford to pay to access public service media.”⁵² **Channel 4**

International examples

- 3.20 In our consultation we referenced several international approaches to supporting PSM funding. These included the industry levies used in France and Spain, levies on streaming services in France and Germany and the replacement of TV-ownership based licence fees with variants of a tax-based approach in Germany, Sweden, Denmark and Finland.
- 3.21 Respondents submitted some further examples of funding mechanisms that could provide useful context and ideas for the UK PSM system. These were predominantly focused on levies on multinational players. The UK Coalition for Cultural Diversity recommended that the Digital Service Tax in the UK should be extended to SVoDs.⁵³ They referred to relevant international examples, including the French-speaking region of Belgium, Italy, Poland and Portugal which all require or are considering requiring contributions from SVoDs to national content funds.⁵⁴ One respondent also referred to Germany’s household fee model

⁵¹ [Screen Scotland response to consultation](#), p.5.

⁵² [Channel 4 response to consultation](#), p.32.

⁵³ The digital service tax is a new 2% tax on the revenues of search engines, social media services and online marketplaces which derive value from UK users. See: <https://www.gov.uk/government/publications/introduction-of-the-digital-services-tax/digital-services-tax>

⁵⁴ [UKCCD response to consultation](#), p.1. French Belgium requires foreign publishers to contribute to a national fund; Italy is discussing a 12.5% contribution of annual net revenues by SVoDs to a national fund; Poland requires on-demand providers to pay 1.5% of revenues to the Polish Film Institute; and Portugal is proposing on-demand platforms contribute 1% of revenue to a national fund.

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and the tax-based systems used predominantly in Scandinavia, which in some countries having a progressive element (Finland, Sweden, Norway) based on personal income.⁵⁵

The BBC Licence Fee

- 3.22 A large proportion of consultation responses mentioned the BBC licence fee, which we have summarised below to provide information to Government and Parliament.
- 3.23 Two stakeholders opposed any Government or other funding and were therefore opposed to the existence of the licence fee or an alternative.⁵⁶ However, most respondents highlighted the importance of retaining the licence fee,⁵⁷ or supported an alternative approach to continued universal public funding for the BBC.⁵⁸ This option was also explored in the House of Commons DCMS Committee report on the [Future of Public Service Broadcasting](#).⁵⁹

“We note the funding of the BBC is not a matter for this review, however, any recommendations related to a sustainable funding model for public service broadcasters will need to be considered in the context of wider debates on the future of the TV licence fee, given its impact on the BBC and S4C. Any reduction in the level of funding made available through the licence fee to BBC Cymru Wales and S4C will be hugely detrimental and destabilising to services in Wales.”⁶⁰ **Welsh Government**

“The principle of universality, and no cost at the point of consumption, remain key to UK PSBs and future PSMs. This implies a continuation of the BBC Licence Fee, for which no convincing alternative has yet been found [...].”⁶¹ **BECTU**

- 3.24 Suggestions from respondents on alternatives to the licence fee included a household tax, either based on utility bills or council tax.⁶² The Media Reform Coalition criticised the licence fee for being a “flat ‘tax’ paid for by virtually all households irrespective of their economic status” that should instead be replaced by a digital licence fee which is universal but recognises ability to pay.⁶³

⁵⁵ [Steemers, Prof J response to consultation](#), p.4-5.

⁵⁶ [Isherwood, J response to consultation](#), p.1; [News Media Association response to consultation](#), p.2 – the NMA suggested that instead of the licence fee funding could instead be channelled into a pool that might fund public interest reporters, employed by local publishers and others.

⁵⁷ [BBC response to consultation](#), p.3-4; [BECTU response to consultation](#), p.2; [S4C response to consultation](#), p.9; [Screen Scotland response to consultation](#), p.5; [Welsh Government response to consultation](#), p.5-6; [Create Central response to consultation](#), p.3; [Arqiva response to consultation](#), p.4; [National Union of Journalists \(NUJ\) response to consultation](#), p.3.; [Guardian response to consultation](#), p.2

⁵⁸ [NUJ response to consultation](#), p.3; [Ofcom’s Advisory Committee for Scotland response to consultation](#), p.10; [Liberal Democrats DCMS team response to consultation](#), p.2-3; [Barwise, Prof P response to consultation](#), p.2.

⁵⁹ [House of Commons DCMS Committee Report on the Future of Public Service Broadcasting](#), p.40-55

⁶⁰ [Welsh Government response to consultation](#), p.2.

⁶¹ [BECTU response to consultation](#), p.2.

⁶² [NUJ response to consultation](#), p.3, [Ofcom’s Advisory Committee for Scotland response to consultation](#), p.10, [Barwise, Prof P response to consultation](#), p.2, [Iosifidis, P and Klontzas, M response to consultation](#), p.1.

⁶³ [Media Reform Coalition response to consultation](#), p.4.

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- 3.25 A large proportion of respondents, whether in support of the licence fee or an alternative funding model, were opposed to ‘top slicing’ the BBC licence fee with strong support for finding funding from other sources if needed to support PSM initiatives.⁶⁴
- 3.26 Some respondents suggested a separate review was needed to explore funding alternatives. This included a proposal to set up an independent committee that could consider options such as a tiered platform-neutral household fee, a supplement to Council Tax or funding via general taxation with appropriate parliamentary safeguards.⁶⁵

⁶⁴ ‘Top-slicing’ refers to using a portion of the BBC licence fee to fund other non-BBC initiatives.

⁶⁵ [A Future for Public Service Television: Content and Platforms in a Digital World response to consultation](#), p.3.

4. Objectives for public service media

In this section we:

- Propose a modernised set of core objectives for the PSM system to deliver in future.
- Explain how legislation could be updated to secure these objectives.
- Consider the vital importance of a healthy PSM system which supports a thriving creative economy across the UK's nations and regions.

4.1 In our consultation, we explained that our research and analysis showed there was still a clear case for a system delivering the benefits of public service broadcasting. We said public service broadcasting continued to play a vital role in delivering types of programming which are important to society, creating shared experiences, reflecting the diversity of the UK and supporting the creative economy. We also highlighted the role regulation plays in ensuring this content continues to be available to all, so that no audiences are left behind by the pace of technological change.

4.2 Given the range of choice now on offer for audiences we set out what PSM must deliver:

Figure 3: Key elements of the PSM system



4.3 Respondents to our consultation agreed that there was still a clear need for intervention to secure PSM. Some stakeholders considered it was important to define the scope and benefits of a PSM system more clearly. To develop a set of core PSM objectives, we have considered what content is necessary to support a well functioning and informed society.

Content with high social value

Trusted and accurate national and regional news and current affairs

- 4.4 Our research consistently shows that high-quality trustworthy and accurate news is one of the most important aspects of public service broadcasting on both a personal and societal level.⁶⁶ PSM providers were considered particularly important for providing dedicated regional news,⁶⁷ which the market would be unlikely to produce, a point also made by several stakeholders.⁶⁸ Although other sources for local news exist (e.g. local radio, local newspapers, local TV and online), audiences said they continue to place a high value on regional news provided by the current PSM providers.⁶⁹

“Any future framework must recognise the importance of regional news and demonstrate ongoing improvements in the coverage of devolved political issues in Wales and adequate coverage of Welsh issues and events.”⁷⁰ **Welsh Government**

“I feel like it was important to watch and explore original content given the situation of lockdown in Aberdeen and other things occurring. It is useful to be able to access regional news so easily on BBC One and STV.”⁷¹ **Female, 22-24, Aberdeen**

- 4.5 This was echoed by stakeholders who emphasised the importance of the current system providing trusted and impartial news and current affairs.⁷²

a “functioning democracy cannot exist without a plural, trusted and vigorous media” and PSM providers “should provide the bedrock for this.”⁷³ **National Union of Journalists (NUJ)**

- 4.6 It was considered particularly important to counter misinformation given the prevalence of false or misleading information available online.⁷⁴

⁶⁶ For example: Ofcom, 2020. [Public Service Broadcasting: omnibus survey findings](#), p.1.

⁶⁷ Jigsaw Research report for Ofcom, 2020. [The impact of lockdown on audiences’ relationship with PSB](#), p.7.

⁶⁸ [Ofcom’s Advisory Committee for Scotland response to consultation](#), p.2; [Ofcom’s Advisory Committee for Northern Ireland](#), p.7-8; [Welsh Government response to consultation](#), p.3.

⁶⁹ In its response, submitted confidentially, the Local TV Network stated that local TV services were designated public service channels, required to fulfil minimum local content obligations. We consider local TV’s contribution to the fulfilment of the current PSB objectives as part of our wider review of media services under s.264A of the Act (see Section 5 of our last five-year review). *Small Screen: Big Debate* forms part of our PSB review under s.264 of the Act which relates specifically to the BBC, Channel 4 Corporation, Channel 3 and Channel 5 licensees and S4C (see s.264(12)). Therefore, we are focusing on the future regulatory framework for these providers.

⁷⁰ [Welsh Government response to consultation](#), p.3.

⁷¹ Jigsaw Research report for Ofcom, 2020. [The impact of lockdown on audiences’ relationship with PSB](#), p.7.

⁷² [BBC response to consultation](#) p.2; [Balfour, F. response to consultation](#), p.1. [TUC Yorkshire & Humber Creative Leisure Industries Committee response to consultation](#), p.1

⁷³ [NUJ response to consultation](#), p.2.

⁷⁴ [ITN response to consultation](#), p.9; [Ofcom’s Advisory Committee for Northern Ireland response to consultation](#), p.1.

“Without a clear regulatory framework to ensure the provision and visibility of PSM news in a digital environment, misinformation and disinformation will continue to thrive while regulated, accurate, professionally-produced news will become harder and harder to find.”⁷⁵ **ITN**

- 4.7 Provision of news has always been a core part of public service broadcasting and existing providers have requirements to produce news and current affairs programming.⁷⁶ The BBC and ITV additionally have a requirement to provide regional news.⁷⁷ Audiences have access to a wide range of other news sources⁷⁸ – for example, Sky News and commercial radio are both used by three in ten online UK adults. However, public service broadcasting services account for half of the top 20 sources of news in the UK (with BBC One and ITV/STV/UTV/ITV Wales news bulletins consistently taking the top two spots).⁷⁹
- 4.8 It is clear that trusted, accurate and impartial news and current affairs programmes will need to be a central part of a future PSM system. This is important to help people contribute to an informed democratic society and, as Ofcom research has shown, is particularly valued by audiences for the reliable take it provides.⁸⁰
- 4.9 In the first week of the Covid-19 pandemic, the percentage of people who said they trusted information from the public service channels was over 80%. This compared to 30% of people who trusted news from websites/apps of online news organisations (such as BuzzFeed, Huffington Post, Vice) and 55% who trusted printed newspapers.⁸¹ It is vitally important that PSM providers with strong brands continue to be trusted by audiences, so that they can play a leading role in providing accurate information to the public about significant events.
- 4.10 Our research also highlighted the importance to people of accurate information about Covid-19 in their area, given the varying restrictions across the UK over the last 18 months. PSM providers have played a vital role in delivering regionally specific TV news over this time.⁸² We consider it is essential that there continues to be a choice of providers of regional news programmes for audiences; competition should also help drive quality and innovation.

A wide range of informative and entertaining UK programmes

- 4.11 There is a significant amount of high-quality UK programming provided across public service, commercial TV and streaming services. Stakeholders agreed with our assessment, that to ensure the needs of all audiences are met, it is vital the PSM system provides a

⁷⁵ [ITN response to consultation](#), p.9.

⁷⁶ See (i) s.279 of the Act; (ii) para. 9, sch. 12 of the Act; and (iii) para. 4, sch. 2 of the BBC Agreement.

⁷⁷ See (i) para. 6, sch. 2 of the BBC Charter and Agreement and (ii) s.287 of the Act.

⁷⁸ In addition to the main PSM providers, there are 34 local TV services.

⁷⁹ Ofcom, 2021. [News consumption survey](#).

⁸⁰ Ofcom, 2019. [Review of BBC news and current affairs](#), p.11; Jigsaw Research report for Ofcom, 2020. [An exploration of people's relationship with PSB, with a particular focus on the views of young people](#), p.43-44.

⁸¹ Ofcom, 2020. [Covid-19 news and information: consumption and attitudes research](#).

⁸² Jigsaw Research report for Ofcom, 2020. [The impact of lockdown on audiences' relationship with PSB](#), p.7-8.

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wide range of high-quality UK content. This content needs to cover all genres and appeal to audiences with varying interests, to ensure that it provides something for everyone. Stakeholders also said PSM should teach people about the world around them and provide content unlikely to be commissioned otherwise.⁸³

“Having a PSM remit is particularly important for ensuring the continuation of original UK-made content in some very important genres, for example, children’s, education, arts and religion.”⁸⁴ **Teledwyr Annibynnol Cymru (TAC)**

- 4.12 Several stakeholders said there should be more PSM content in genres which they considered particularly important, or that rely heavily on PSM providers. For example, some respondents emphasised the importance of protecting indigenous language content,⁸⁵ formal and informal learning,⁸⁶ programming about religion and other beliefs (particularly being available on services other than the BBC),⁸⁷ investigative documentaries, feature films and drama.⁸⁸ Sky argued that it provides a significant amount of public service content, much of which is available free to air (e.g. through its Sky News and Sky Arts channels).⁸⁹ The BFI highlighted the role public service broadcasters play in UK independent film production as an important benefit of the current public service broadcasting system.⁹⁰
- 4.13 PSM providers have an important role in making, commissioning and supporting types of UK content which is either not available free-to-air at all elsewhere, or only to a limited extent. For example, in our last five-year review, published in February 2020, we found there was only limited provision in a number of genres (including UK children’s programmes, arts, formal education, and religion).⁹¹

“The market has never provided children’s programming, education or religious programming. The market will not supply specific programming made for the UK’s regions.”⁹² **NUJ**

- 4.14 The importance of a wide range of PSM for all audiences was demonstrated during the Covid-19 pandemic. Alongside the educational content, provided by the BBC to support

⁸³ The BFI noted the importance of original UK animation programming can play in the development of young children ([BFI response to consultation](#), p.9). Better Media argued that public support for media content should be focussed on organisations that are committed to social gain priorities such as education and media literacy ([Better Media response to consultation](#), p.3).

⁸⁴ [TAC response to consultation](#), p.6. (TAC represents the TV production sector in Wales.)

⁸⁵ [Scottish Government response to consultation](#), p.7-8; [Welsh Government response to consultation](#), p.3-4, [MG Alba response to consultation](#), p.1-2. One respondent suggested including broadcasting in other languages for communities whose first language is not English ([Ofcom’s Advisory Committee for England response to consultation](#), p.4).

⁸⁶ [The Open University response to consultation](#), p.1.

⁸⁷ [Premier Christian Media Trust response to consultation](#), p.1-2; [Sandford St Martin Trust response to consultation](#), p.2-4. Humanists UK argued that the current PSB system would be strengthened if it ensured the provision of programming about non-religious beliefs in addition to religion, in line with s.264(6)(f) of the Act ([Humanists UK response to consultation](#)).

⁸⁸ [UKCDD response to consultation](#), p.1.

⁸⁹ [Sky response to consultation](#), p.4.

⁹⁰ [BFI response to consultation](#), p.10.

⁹¹ Ofcom, 2020. [Small Screen: Big Debate – a five-year review of Public Service Broadcasting](#) (2014-2018), p.21.

⁹² [NUJ response to consultation](#), p.3.

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teachers and parents home schooling their children,⁹³ PSM providers quickly offered a range of shows which reflected the human impact of the pandemic. Programmes such as ITV's *Isolation Stories* showed how people in the UK experienced national lockdowns, while the day to day challenges were featured in several popular dramas (e.g. most of the UK soaps and specially commissioned programmes such as *Staged*).⁹⁴ They were also able to adapt programmes and formats – BBC's *Question Time* recorded remotely, Channel 4's *The Steph Show* filmed from the presenter's home and creating a bubble for the BBC's *Great British Sewing Bee* – to help ensure the continuing supply of new information and entertainment for all audiences.⁹⁵

“In addition, there is its [UK PSM's] overall role holding the nation together in a non-purely commercial way. This was taken for granted during the Covid-19 pandemic, but it's important to consider how the UK PSM reacted by commissioning specific programming which may not have great commercial value, but was vital to help the nations to come to terms with the pandemic and its resulting restrictions on normal life.”⁹⁶ **TAC**

- 4.15 We think it is important that PSM providers continue to have obligations to deliver a wide range of informative and entertaining UK content.

Bringing people together for shared experiences

- 4.16 Audiences in our research said public service programming made an important contribution to social cohesion and inclusion. Stakeholders also commented on the role PSM played in connecting people from different backgrounds, as well as building a sense of national identity and belonging:

“[Public service broadcasting] not only brings individuals into groups, but it also establishes inter-generational connections.”⁹⁷ **Voice of the Listener and Viewer**

- 4.17 Because they are well known and available to all, PSM providers are able to attract large audiences with their original content. For example, the final episode of *Line of Duty* had an average audience of 16.4m people.⁹⁸ This ability to bring people together is also important in the coverage of live events.⁹⁹
- 4.18 Although they would generally be covered by other broadcasters, we consider the availability of events that bring the country together on PSM services helps to ensure they

⁹³ For example, the BBC extended its Bitesize programmes, and put some weekday educational programmes on CBBC and BBC Two to support lower income families who do not have sufficient data packages to access content.

⁹⁴ [ITV response to consultation](#), p.3.

⁹⁵ BBC, April 2020. TV in lockdown: How shows are coping without a studio audience; BBC. [The Great British Sewing Bee: Covid-19](#).

⁹⁶ [TAC response to consultation](#), p.6.

⁹⁷ [VLV response to consultation](#), p.8.

⁹⁸ BARB consolidated viewing up to 28 days across TV and other devices.

⁹⁹ This point was also made by the Select Committee on Communications and Digital in its 2019 report '[Public service broadcasting: as vital as ever](#)', paragraph 93, p.28.

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are accessible to all audiences. For example, live sport is valued by many people (at its peak, 19.9 million watched the England vs Scotland Euro 2020 game)¹⁰⁰ but the high cost of sports rights mean the most popular events are unlikely to be available on PSM services without regulatory intervention.¹⁰¹

- 4.19 The listed events regime is designed to ensure certain events of national interest, selected by Government, remain available to all for free.¹⁰² It is then for Ofcom to assess which channels or services can show these events on the basis that they are free-to-view and can reach at least 95% of the population through broadcast TV or online.¹⁰³

The PSB compact should include “[...] an assumption that between them the PSBs will be expected to cover all major national events of celebration, sport and remembrance. The listed events regime, which is not mentioned, should remain and serious consideration given to updating it.”¹⁰⁴ **Professor Steven Barnett, University of Westminster**

- 4.20 Government should consider whether to update the criteria that determine which services should carry listed events. There would be merit in assessing whether to change the regime in a way that would strengthen PSM benefits.

Reflecting the diversity of the UK

- 4.21 Programming that accurately reflects the diversity of the UK was identified as one of the main contributions of public service broadcasting in our audience research, particularly among younger viewers.¹⁰⁵ The people we spoke to were clear that programmes resonated more with them if they portrayed characters whose lives they could recognise. Many also expressed pride in seeing their own areas represented on screen.¹⁰⁶ 65% of UK adults who watch both public service broadcasting and SVoD services considered the former were better at “providing programmes which reflect UK life and values.”¹⁰⁷
- 4.22 The role played by PSM in supporting UK culture by reflecting society back to itself was highlighted by several respondents to our consultation.¹⁰⁸

¹⁰⁰ BARB overnight viewing on the day of broadcast.

¹⁰¹ For example, total sports programming spend in 2019 was 25% higher than 2015 (in real terms), with PSM providers accounting for 11% of the total. Source: Ofcom/broadcasters. Figures are inclusive of both sports rights and production spend for PSBs and multichannels.

¹⁰² S. 97-105 of the Broadcasting Act 1996.

¹⁰³ Ofcom, 2019. [Statement: Listed Events. Identifying services that are free-to-view and widely available](#). The list of qualifying services was [updated](#) in October 2019.

¹⁰⁴ [Barnett, Prof S response to consultation](#), p.5.

¹⁰⁵ Ofcom, 2020. [Public Service Broadcasting: omnibus survey findings](#), p.6-7. Participants were asked to name three benefits of the PSBs which they felt were the most valuable to society overall.

¹⁰⁶ Jigsaw Research report for Ofcom, 2020. [An exploration of people’s relationship with PSB, with a particular focus on the views of young people](#), p.40-41.

¹⁰⁷ Ofcom, 2020. [Public service broadcasting: quantitative research findings](#), p.2.

¹⁰⁸ [Humanists UK response to consultation](#), p.1; [Welsh Government response to consultation](#), p.1; [Ofcom’s Advisory Committee for Northern Ireland response to consultation](#), p.2-3.

“We believe that accountability should include a requirement to represent diversity of UK in off screen operations/ staffing as well their content, and to report whether the target metrics have been reached.”¹⁰⁹ **BECTU**

“The nature of the PSB system helps broadcasters reflect the UK’s diversity, but more should be done to improve representation and authenticity of programming to ensure Scottish audiences feel broadcasters are genuinely reflecting their lives to them and to others.”¹¹⁰ **Scottish Government**

- 4.23 We consider that reflecting the diversity of the UK must include the accurate portrayal of protected characteristics,¹¹¹ as well as representing people from a wide range of socio-economic backgrounds and communities from across the UK. It is important that this diversity extends to off-screen roles (such as writers, directors, producers, production crew, commissioners etc.) to provide a greater plurality of editorial voices and authentic representation.
- 4.24 To ensure that this objective is met, it will be important that we continue to monitor the diversity of UK broadcasters’ workforces. For most broadcasters, our powers to require the provision of such information is currently limited to data on men and women, race and disability. Data relating to other protected characteristics is provided on a voluntary basis.
- 4.25 In the future PSM regulatory framework, we consider that equivalent equal opportunity obligations could be introduced for the commissioning and production arms of the main SVoD services operating in the UK.¹¹² This would provide a fuller picture of equal opportunities across the industry, as it would complement the data collected from UK broadcasters by Ofcom and from production companies by the Creative Diversity Network.
- 4.26 Ofcom’s current diversity powers in relation to freelancers are limited. This large section of the broadcasting workforce has a vital role to play in making the sector and PSM content more diverse. We do not know how they will be impacted by changes to practices and locations resulting from the Covid-19 pandemic and broader shifts in the industry. It will be important that future legislation embeds a regulatory framework that will allow Ofcom to respond to changes.

Supporting the UK creative economy

- 4.27 The production sector in the UK is thriving – it is diverse, competitive and internationally successful. Commissioning spend increased from around £2.6bn in 2004 to between £4.5bn and £5bn in 2019.¹¹³ UK produced shows earn significant export revenues (£1.48bn

¹⁰⁹ [BECTU response to consultation](#), p.1.

¹¹⁰ [Scottish Government response to consultation](#), p.1.

¹¹¹ Age, disability, gender reassignment, marriage and civil partnership, sex, race, sexual orientation, religion or belief, pregnancy and maternity.

¹¹² Ofcom, 2020. [Diversity and equal opportunities in television and radio 2019/2020](#), p.44.

¹¹³ Ofcom, 2020. [Small Screen: Big Debate Consultation – Annex 7](#), paragraph A2.7.

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- in 2019-20)¹¹⁴ and showcase the UK to international audiences, with PSM commissioned programmes playing a leading role in projecting the UK positively across the globe.
- 4.28 Public policy interventions have played a significant role in developing the independent production sector in the UK, with the creation of Channel 4 as a publisher-broadcaster the most significant.¹¹⁵ Existing PSM providers are central to the UK creative economy, collectively remaining the largest commissioners of UK content that provide a backbone of stable investment. Up to 2019, they spent over £2.8bn each year on new UK programmes on their main channels (nearly £3bn if portfolio channels are included).¹¹⁶
- 4.29 We consider that supporting the creative economy should be recognised as one of the key objectives of the PSM system.¹¹⁷ Stakeholders generally agreed with this view and considered there should be a particular focus on driving economic benefits for businesses across the UK nations and regions.¹¹⁸
- 4.30 Guaranteed investment from PSM providers in the production sector has delivered significant economic benefits, particularly across the UK's nations and regions. For example, KPMG estimated that the BBC generated over £3.1bn of economic output for the UK creative sector.¹¹⁹ Channel 4's move of around 250 of its workforce to Leeds has been a catalyst for a cluster of TV, film and creative organisations in the surrounding area¹²⁰ and is estimated to boost the local economy by £1bn.¹²¹ Just over 50% of the BBC's, and nearly half of ITV Group's, employees are based outside London.¹²²
- 4.31 The value PSM investment can bring to an area is showcased by the impact the BBC's Natural History Unit has had on the creative economy in Bristol. The BBC's commitment to the city has drawn in specialist suppliers ranging from underwater filming specialists to feature film composers.¹²³ A cluster of independent natural history producers such as Plimsoll Productions, Silverback, and Humble Bee Films – all of which were founded by former BBC staff – have grown around it.¹²⁴
- 4.32 PSM providers are already spending more of their content budgets in the nations and regions of the UK. In 2019, nearly half (48%) of total PSM content spend was outside of London, up from 38% in 2010.¹²⁵ Pact has estimated PSM providers make up 61%

¹¹⁴ 3Vision, 2020. [Pact: UK TV Export Report 2019-20](#), slide 3.

¹¹⁵ C4C is not allowed to be involved in the making of programmes broadcast on Channel 4. See: s.295 of the Act.

¹¹⁶ Ofcom/broadcasters.

¹¹⁷ While the BBC and C4C are subject to high-level duties relating to the creative industry (see s.198A(4)(a) of the Act [C4C] and art 6(4) of the BBC Charter and Agreement), the PSB purposes in s.264(4) of the Act do not directly refer to supporting the creative industry.

¹¹⁸ [ITV response to consultation](#), p.3; [VLV response to consultation](#), p.8; [Ofcom's Advisory Committee for Wales response to consultation](#), p.14; [Ofcom's Advisory Committee for Northern Ireland](#), p.3; [BBC response to consultation](#), p.8.

¹¹⁹ KPMG, 2021. [An Assessment of the Economic Impact of the BBC – A report for the BBC for Financial Year 2019/20](#), p.21.

¹²⁰ [Channel 4 response to consultation](#), p.15.

¹²¹ BBC News, 29 March 2019. [Leeds expects £1bn economic boost from Channel 4 move](#).

¹²² BBC, 2021. [BBC Group Annual Report and Accounts 2020/21](#), p.30; [ITV response to consultation](#), p.3.

¹²³ Deloitte. 2010. The Economic Impact of the BBC: 2008/09. p.73

¹²⁴ The founder of Plimsoll, Grant Mansfield, started his career at the BBC (Plimsoll). Silverback was founded by Alastair Fothergill, Keith Scholey, Jane Hamlin, and Huw Cordey all of whom gained previous experience at the BBC NHU (Silverback). The Team at Humble Bee Films also all have a history with the BBC NHU (Humble Bee Films).

¹²⁵ Ofcom/broadcasters.

(c.£600m) of primary commissioning revenue for independent producers in the nations and regions.¹²⁶ For example, the BBC's partnership with Northern Ireland Screen, now in its seventh year, has produced many successes, including the recent series of *Line of Duty*. Between the last partnership renewal in March 2017 and March 2021, the BBC invested £70 million in network production from Northern Ireland, as part of the partnership, alongside just under £10 million from Northern Ireland Screen, leading to an additional £55 million of third party funding.¹²⁷

Content that is universally available

- 4.33 Many stakeholders agreed it was important that audiences should be able to easily access PSM.¹²⁸

“Universal access is crucial if the benefits of PSB are to be maintained.”¹²⁹ **Voice of the Listener and Viewer**

“[The framework] should [...] ensure that the PSBs continue to be available on a universal basis, free of charge, in ways that viewers find convenient, even as the services used to deliver public service objectives are broadened.”¹³⁰ **Sky**

- 4.34 As discussed in **Section 6**, we consider that online provision of PSM content must become a key component of the PSM system. However it will continue to be vital that vulnerable groups, as well as those who don't have access to the internet, are able to continue to enjoy a broad range of programming through broadcast TV services. The audiences who are most reliant on this told us that it was a crucial part of their lives, as important for providing a sense of companionship as for the information it offers.¹³¹
- 4.35 All audiences must be able to access PSM content. All broadcast TV channels are subject to accessibility requirements to ensure that disabled people – particularly those with sight and hearing impairments – are able to watch PSM programmes.¹³² However, there are no similar requirements for on-demand services (including the PSM's own services and SVoDs). We are currently working with Government to bring in requirements for on-

¹²⁶ Oliver & Ohlbaum report for Pact, 2020. [UK Television Production Survey: Financial Census 2020 – Nations & Regions Annex](#), slide 7.

¹²⁷ BBC MediaCentre, 24 June 2021. [BBC and Northern Ireland Screen renew partnership agreement](#). In the [BBC across the UK](#) plan, the BBC has committed to renewing its partnerships with Northern Ireland Screen and Creative Scotland, launch a new partnership with Creative Wales and create new partnerships at a local level in England (particularly in the North and Midlands).

¹²⁸ [VLV response to consultation](#), p.4, [Screen Scotland response to consultation](#), p.2; [Ofcom's Advisory Committee for Wales](#), p.14; [Create Central response to consultation](#), p.2. [RNID response to consultation](#), p.1; [Communications Consumer Panel response to consultation](#), p.3; [Prof S.Harvey response to consultation](#), p.21

¹²⁹ [VLV response to consultation](#), p.8.

¹³⁰ [Sky response to consultation](#), p.10

¹³¹ Jigsaw Research report for Ofcom, 2020. [The impact of lockdown on audiences' relationship with PSB](#), p.11

¹³² PSBs (excluding Channel 5) are subject to higher accessibility targets than other broadcasters with respect to the proportion of content that requires subtitling and audio descriptions. Ss 303 and 307 of the Act; sch. 3, para. 9 and sch. 4, para 5(3) of the BBC Framework Agreement. [Ofcom's Code on Television Access Services](#) (5 February 2021) and Ofcom's document entitled [Television channels required to provide access services in 2021](#) (8 July 2020)

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demand programme services, including in relation to the quality and useability of access services.¹³³

Recommendations to Government:

- There should be a revised set of PSM objectives included in legislation to support the transition from public service broadcasting to public service media.

The core objectives of the PSM system should be to deliver PSM content that:

- delivers social value, including high-quality trusted and accurate national and regional news and a wide range of UK-based informative and entertaining programming;
- brings people together for shared experiences;
- reflects the diversity of the UK;
- supports the UK creative economy, driving economic benefits across the nations and regions;
- is universally available, delivered online as well as through broadcast TV.

¹³³ See paragraphs 3.11-3.19 of our [first statement on ODPS accessibility](#) which has been followed up with further recommendations to government [Statement: Making on-demand services accessible - Ofcom](#).

5. Modernising legislation to deliver public service media

In this section we:

- Set out how a new regulatory framework should be structured to support the transition from public service broadcasting to public service media.

Structure of a new regulatory framework

- 5.1 We are proposing that future legislation should deliver the objectives for public service media which we set out in **Section 4**. These objectives, which are intended to describe what the PSM system as a whole should aim to achieve, are broad. To ensure audiences are well served these objectives need to be supported by a modernised regulatory framework which holds providers to account.
- 5.2 The existing framework focuses on public service broadcasters' TV channels, with only the BBC iPlayer and All 4 among the PSM providers' on-demand services contributing directly to public service provision.¹³⁴ The current licensing regime for the commercial public service broadcasters only sets out broadcast TV requirements. Respondents considered that a transition to PSM that includes delivery over TV channels and online is now essential to ensure the overall objectives can be met.

"[A] new framework is needed to fit new broadcasting structures and ensure broadcasters are able to continue to deliver for the people of Wales. We agree with Ofcom that this framework must support an effective transition from public service broadcasting to public service media."¹³⁵ **Welsh Government**

"I agree with Ofcom that a new regulatory framework is urgently needed to support the digital transformation of PSB, contribute to its sustainability and resilience, and make it fit for the future."¹³⁶ **Dr Maria Michalis, University of Westminster**

- 5.3 As is the case today, Government may choose to specify within legislation how it expects the PSM objectives to be achieved.¹³⁷ For example, to ensure a wide range of informative and entertaining UK programming is delivered, legislation could identify genres which should contribute to doing so, such as documentaries, children's programming and original

¹³⁴ The BBC's online and on-demand UK public services contribute to the delivery of its Royal Charter mission and purposes, and Channel 4 Corporation's online and on-demand services contribute to the delivery of its media content statutory remit (see definition of "UK Public Services" at para. 2(4), pt 1, sch. 1 of the BBC Framework Agreement and s. 198A(6) of the Act).

¹³⁵ [Welsh Government response to consultation](#), p.1.

¹³⁶ [Michalis, Dr. M response to consultation](#), p.3.

¹³⁷ S.264(6) of the Act.

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comedy. It would then be Ofcom's duty to set appropriate obligations for each PSM provider to deliver this content.

- 5.4 We anticipate the roles which individual PSM providers play within the system would, as now, be determined by individual remits. However, to ensure objectives can continue to be delivered effectively, we think it is important that legislation contains mechanisms which allow those remits, who delivers them and how they are delivered, to be adapted over time.¹³⁸ This approach could allow supplementary providers to be introduced into the framework if necessary. It would also need to maintain compatibility with the Mission and Public Purposes set out in the BBC Charter and Agreement.¹³⁹
- 5.5 It would then be Ofcom's responsibility to implement the legislative framework, setting out what individual providers should do, how they should do it and how they will be held accountable. This would include setting specific obligations, providing guidance, monitoring compliance, and taking enforcement where necessary. We set out further detail about this in **Sections 6 to 8**. Further changes to the regulatory framework are likely to be necessary in the coming years as audiences increasingly watch content online.
- 5.6 Currently, Ofcom is required to conduct a review of the public service broadcasting system every five years. We consider that the oversight that this provides will continue to be necessary as new legislation supports the transition to an updated PSM system. We discuss this further in **Section 8**.
- 5.7 Our recommendations in this area also have implications for our work on standards and audience protection. Currently, broadcast TV and radio services must comply with the Broadcasting Code.¹⁴⁰ The Code also applies to the BBC iPlayer but otherwise the rules for other on-demand services are less comprehensive than those in the Broadcasting Code and focus primarily on protecting children from potentially harmful or unsuitable content.¹⁴¹ The Government recently [announced](#) it will consult in the summer on the regulation of on-demand services, including whether they should be regulated in the UK to the same level as broadcast TV.

Recommendations to Government

- A new legislative framework should ensure a new PSM system brings online as well as broadcast TV within scope.
- This legislation should require Ofcom to set obligations to secure PSM objectives. These obligations will need to be updated in line with audience and sector changes.

¹³⁸ The Government has recently announced its intention to consult on the possible privatisation of Channel 4. Any change in the role of Channel 4 may need to be reflected in its legislative remit currently set out in s.265(3) of the Comms Act.

¹³⁹ For the BBC, we would expect that as now, its mission and public purposes would continue to be set out in the Charter and Agreement. See A5.14-A5.22 of the [PSB Regulatory Framework Annex 5](#). The Government would also need to examine how the changes proposed in this statement would affect the other aspects of the Charter and Agreement

¹⁴⁰ S.319, s.320 and s.325(1) of the Act [C3,C4,C5]; paras. 12, sch. 12 of the Act [S4C]; para. 3, sch. 3 of the BBC Framework.

¹⁴¹ S.368E of the Act.

6. Ensuring public service media is widely available and prominent

In this section we:

- Set out the urgent need for updated legislation to ensure PSM content is widely available and prominent for audiences on broadcast TV and online.
- Discuss how updated regulation and guidance could help address the risks of PSM providers and TV platforms failing to agree terms, which can lead to audiences losing access to PSM services.
- Outline how our proposals are consistent with broader developments in regulation of online and digital markets.

Key terms in this section

- **Availability** means that audiences have access to PSM content free at the point of delivery via a commonly used TV platform, such as those offered by Freeview, Sky or Amazon Fire.
- **Prominence** means giving PSM content a privileged position within a TV guide and/or user interface within a connected TV platform so it is particularly easy for audiences to find and watch.

6.1 In 2019 we made [recommendations](#) about prominence to Government. This section and the associated [Annex 1](#) builds on these recommendations to propose new rules to ensure PSM is made available and prominent on a wide range of popular TV platforms.

Negotiations between public service broadcasters and TV platforms are complex

- 6.2 At present, regulation guarantees that public service TV channels are widely available and given appropriate prominence within TV guides.¹⁴² There are no rules to secure the availability and prominence of online PSM content.
- 6.3 The public service broadcasters have to negotiate with TV platforms to distribute their on-demand content. These platforms include pay TV operators like Sky and free-to-access platforms like YouView, TV manufacturers like Samsung and Panasonic, as well as global TV platform providers like Amazon and Google which are now widely used in the UK (through devices like Amazon Fire TVs or streaming sticks like Google Chromecast).
- 6.4 Public service broadcasters and TV platforms may encounter a range of issues in negotiation, although stakeholders have told us that prominence is often the most contested one.

¹⁴² 'TV guides' in this context are Electronic Programme Guides (EPGs). A summary of the existing availability and prominence rules and how they apply to EPGs is set out at [Annex 5](#).

“[...] in Channel 4’s experience it is already the case that some Smart TV, set top box and streaming stick manufacturers are prepared to walk away from deals rather than give Channel 4 prominence.”¹⁴³ **Channel 4**

“It is also important that [...] PSMs are able to retain and access our audience data at a sufficiently granular level. We cannot improve our performance and understand our audiences, and share best practice and insights among PSBs, without this. [...] Access to data will be critical in the future to the preservation of the PSB (or PSM) ecosystem.”¹⁴⁴ **BBC**

6.5 Other issues in negotiations include how content is attributed to broadcasters, so audiences know who made the programmes; and broadcasters’ access to audience data, which helps them understand who and how people are watching their content. In the case of commercial public service broadcasters’ on-demand services, who retains control of advertising – including the ability to skip or personalise ads – can also be contested.

6.6 In their consultation responses, the public service broadcasters argued that they are finding it increasingly difficult to negotiate key terms. They said that this was partly due to intensifying competition from streaming services like Disney+, who as a result of their global reach and scale are able to negotiate worldwide platform prominence.¹⁴⁵

“Without a regulatory intervention there is a significant risk that public value content will be harder to find for audiences, not because those PSB services are not valued and popular but simply because global players are able to purchase prominence on platforms that are presently unregulated.”¹⁴⁶ **ViacomCBS**

6.7 Meanwhile, manufacturers and platform providers told us that the public service broadcasters had a strong negotiating position because audiences expect to access public service content on-demand. Some respondents also raised concerns that public service broadcasters insist on terms that are technically complex and onerous for platforms to fulfil.¹⁴⁷

¹⁴³ [Channel 4 response to consultation](#), p.25.

¹⁴⁴ [BBC response to consultation](#), p.15.

¹⁴⁵ [BBC response to consultation](#), p.19; [Channel 4 response to consultation](#), p.25; [ITV response to consultation](#), p.42-43.

¹⁴⁶ [ViacomCBS response to consultation](#), p.6.

¹⁴⁷ [BT response to consultation](#), p.8; [Google & YouTube response to consultation](#), p.7.

“The PSBs claim that it is increasingly difficult for them to be carried on “all major content distribution platforms” however from our perspective we view that all the barriers that are erected are done so by the PSBs themselves with their own unnecessary and additional Terms and Conditions.”¹⁴⁸ **LG**

New proportionate regulation is needed to protect audience interests

- 6.8 When commercial negotiations fail, there is the risk that the public service broadcasters’ on-demand services (for example ITV Hub or My5) will not be available on the affected platforms until a commercial resolution is reached. A number of responses to our consultation agreed that some form of regulatory intervention is necessary to guarantee the availability of on-demand PSM on a wide range of platforms.¹⁴⁹ However, respondents expressed a range of views about the aims and design of any such regulation.

“All platforms must have the freedom to innovate, design and develop the best user interfaces and user experiences for their customers in order to meet their evolving habits and demand for content and services without restrictive regulation.”¹⁵⁰
techUK

- 6.9 The public service broadcasters argued that there is an urgent need for new prominence and availability rules.¹⁵¹ Most responses from platform providers acknowledged that there could be benefits in requiring public service broadcasters to offer their on-demand services to platforms.¹⁵² However, several argued that rules specifically requiring platforms to make PSM prominent are not necessary.¹⁵³

“*Prominence* is a specific regulatory by-product of 20th century linear broadcast television that has little or no relevance in the streaming world... Roku’s platform provides a high degree of configurability, allowing users to freely change the location of apps within the user interface, essentially rendering prominence a non-issue.”¹⁵⁴ **Roku**

- 6.10 Respondents generally agreed that any new rules should be designed to minimise potential detrimental effects on the commercial freedom of platforms or the ability of PSM

¹⁴⁸ [LG response to consultation](#), p.7.

¹⁴⁹ [Sky response to consultation](#), p.12-13; [LG response to consultation](#), p.2-3; [STV response to consultation](#), p.21; [BBC response to consultation](#), p.19-20; [Johnson, Prof C response to consultation](#), p.7.

¹⁵⁰ [techUK response to consultation](#), p.5.

¹⁵¹ [Channel 4 response to consultation](#), p.25; [BBC response to consultation](#), p.5; [ITV response to consultation](#), p.10.

¹⁵² [Sky response to consultation](#) p.23-24; [techUK response to consultation](#) p.7-8; [BT response to consultation](#) p.6.

¹⁵³ [Roku response to consultation](#), p.3; [techUK response to consultation](#) p.2.

¹⁵⁴ [Roku response to consultation](#), p.3.

providers and platforms to innovate and respond to consumer choice.¹⁵⁵ We recognise that overly prescriptive intervention could harm investment and innovation.

“When considering the design of a future ‘must-offer’ regime for on-demand PSB Content, the priority for policymakers should be to ensure that PSBs make their public service content widely available in ways that are convenient for viewers and result in a good viewer experience.”¹⁵⁶ Sky

Our recommendations for new availability and prominence rules

- 6.11 Our aim in developing recommendations is to ensure UK audiences can continue to access broadcast TV and on-demand PSM content in prominent positions on commonly used TV platforms. This will help to underpin the commercial sustainability of PSM. This builds on our published [prominence recommendations](#); fuller details of our objectives and recommendations are set out in [Annex 1](#).

New legislation should set out which services are in scope

- 6.12 We consider the following services should initially be within the scope of the new rules:
- f) the PSM on-demand services whether in the form of an app or, in some cases, a collection of PSM content hosted directly on a TV platform or on the app of another PSM provider (such as the S4C content hosted on the BBC iPlayer).
 - g) TV platforms that are used by a significant number of people as their main way of navigating around and accessing a range of on-demand services from third-party providers. This would initially include pay-TV services, as well as Smart TVs, streaming sticks and some games consoles.
- 6.13 It is possible that a broader range of platforms or a different set of PSM providers could fall within scope in the future. It is essential that new legislation enables the regime to be adapted so that it can continue to meet objectives over time, in line with changes in audience behaviour and technological developments.
- 6.14 We do not consider that video sharing platforms (VSPs) like YouTube, or SVoD services like Netflix, would fall within the initial scope of the rules. VSPs are predominantly used for short-form user generated content, and content providers’ access to the platform is not restricted. SVoD services commission or acquire all of the content they show; these services do not host third party players, like ITV Hub or My5.
- 6.15 We have also not considered access to audio content as the focus of our review is on TV content. However, respondents such as Audio UK highlighted the importance to them of issues such as prominence, access to audience data and content attribution on voice

¹⁵⁵ [Roku response to consultation](#), p.2-3; [Google & YouTube response to consultation](#), p.5-7; [BBC response to consultation](#), p.20-21.

¹⁵⁶ [Sky response to consultation](#), p.13.

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activated devices.¹⁵⁷ We recognise that growth in online audio services and devices, such as smart speakers, may present similar regulatory challenges to those in TV content. We will reflect on the implications for audio regulation when the DCMS review is published.

PSM providers should have new ‘must offer’ obligations

- 6.16 We propose legislation should establish ‘must offer’ requirements for regulated PSM providers, in line with statutory objectives. Each PSM provider would be required to offer regulated platforms all of the content it relies upon to fulfil its PSM obligations.
- 6.17 These obligations may vary by provider and may include requirements on how content is presented to ensure that audiences can easily find and discover a range of PSM content. The availability and prominence of any non-PSM content or services would remain a matter for commercial negotiation with platforms and would not fall within the new regulatory regime.

Regulated TV platform providers should have availability requirements

- 6.18 The requirements on PSM providers should be matched with availability requirements on regulated platforms. Platforms would have to make the PSM content available in line with a new set of statutory requirements. These should include a requirement to give appropriate prominence to PSM content and for terms to be consistent with the sustainable delivery of PSM.
- 6.19 To be effective, we also recommend new ‘must-offer’ and availability requirements are supported by enforcement powers for Ofcom. These would enable us to gather evidence to monitor compliance, assess breaches and impose remedial action (including fines), where necessary. We also think there is a role for Ofcom in providing guidance, described further under our proposal for a dispute resolution process below.

Prominence should be part of the new on-demand availability regime

- 6.20 As prominence is negotiated at the same time as other carriage terms, we think it should be central to the new on-demand availability regime. Prominence matters because it helps to promote PSM content to audiences so they can easily find it and gain maximum benefits from watching it. We also recognise the importance of viewer choice and that audiences want to be able to find other content readily, in addition to PSM. We think that regulation can weigh up these interests to determine what ‘appropriate prominence’ is on a variety of platforms, including any specific national considerations such as the prominence of STV on-demand content in Scotland.

¹⁵⁷ [AudioUK response to consultation](#), p. 4.

Ensuring the continuing prominence and availability of broadcast TV content is also essential

- 6.21 As we outlined in our prominence recommendations in 2019, we would expect regulated platforms to safeguard the discoverability of broadcast TV to ensure that audiences can continue to find it.
- 6.22 New rules to secure the availability of on-demand PSM could be established in parallel with the existing regulation which has helped to ensure the availability of broadcast TV public service channels for nearly two decades.¹⁵⁸ However, to streamline regulation and take account of technology changes, it may be preferable to establish a single new regime that supports the prominence and availability of both broadcast TV and on-demand PSM content.
- 6.23 Respondents to our consultation provided mixed views on this question, with the public service broadcasters outlining that a new regime should ensure access to their channels and on-demand services on all major TV platforms.¹⁵⁹

“[The current must offer / must carry rules] provide an important safeguard to ensure that viewers are able to access the main public service channels for free via major UK platforms and should therefore be maintained.”¹⁶⁰ **Sky**

- 6.24 We will engage further with stakeholders and DCMS to understand the implications of either option to ensure that regulation continues to support the prominence and availability of PSM effectively in both broadcast TV and on-demand forms.

New legislation should give Ofcom enforcement powers

- 6.25 Several stakeholders said, given the different incentives of PSM providers and platforms, there could be a role for Ofcom to intervene when they cannot agree terms.¹⁶¹
- 6.26 Guidance would play a valuable role in incentivising parties to reach timely agreements in the interests of audiences. It could be revised when needed to ensure it remained effective if the factors negotiated between parties changed over time. In addition to using our guidance as the basis for resolving disputes, we would also take relevant aspects of it into account when considering any potential enforcement action.
- 6.27 The guidance would set clear expectations about what terms would normally be considered acceptable and outline the circumstances where we might have concerns. For example, if platforms required a share of a PSM provider’s online advertising as a condition for carrying the PSM content offer, this could potentially undermine a PSM provider’s ability to fund PSM content and therefore deliver poor outcomes for audiences. On the

¹⁵⁸ For more information see [Annex 5](#), paragraphs A5.33-A5.35.

¹⁵⁹ [ITV response to consultation, Annex 1](#), p.1-6.; see also [Joint PSB submission on prominence, inclusion and fair value](#) (submitted before consultation), p.5. For a counter view, see [Sky response to consultation](#), p.17.

¹⁶⁰ [Sky response to consultation](#), p.17.

¹⁶¹ [techUK response to consultation](#), p.4; [Channel 4 response to consultation](#), p.27; [ITV response to consultation, Annex 1](#), p.6-7.

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other hand, guidance could also help ensure that the terms of PSM availability do not have a disproportionate adverse impact on platforms' ability to innovate and meet consumer expectations.

6.28 To mitigate against audience harm while a dispute assessment was being made, we recommend:

- there should be a strict time limit within which disputes must be resolved; and
- Ofcom should be able to require any relevant PSM services to be made available according to a set of temporary terms, until the dispute is resolved.

6.29 We consider a dispute resolution process would be more efficient and proportionate than the alternative proposal made by several respondents, including Sky, LG and the public service broadcasters. These respondents argued that Ofcom should establish a standard set of contractual terms, which would automatically apply in the event that commercial negotiations breakdown.

6.30 Having assessed responses, we consider that fixed contractual terms would not adequately reflect the complexities of different negotiations and could stifle innovation, for example possible future advances in user interfaces. In addition we consider that the process of defining a separate 'offer' for each PSM, including the necessary regulatory oversight, is likely to be complex and resource intensive.

New PSM prominence and availability regulation is distinct from but consistent with broader discussions about online regulation

6.31 This review has focused on recommendations for a future PSM system. Some respondents argued that there should be greater regulation of global online platforms, as they have scale advantages over PSM providers.¹⁶² The key trends in the global media sector discussed in **Section 3** also have implications for how competition operates more broadly, including in search and online advertising.

6.32 ITV suggested that any new advertising regulation on high fat, salt and sugar foods should apply equally to broadcast and online content.¹⁶³ Channel 4¹⁶⁴ recommended that the relationship between online platforms and public service broadcasters should be one of the issues addressed in the 'code of conduct' recommended by the Digital Markets Taskforce.¹⁶⁵ The BFI suggested regulation be introduced to extend the existing obligation to contribute to the national television archive to cable television providers and SVODs.¹⁶⁶

"The UK's PSB system is considered to be one of the best in the world, providing a plural, universally accessible supply of high-quality UK-specific content. This is being eroded by the fragmentation of the market and increased competition, especially

¹⁶² [Johnson, Prof C response to consultation](#); [Name Withheld 1 response to consultation](#), p.2; [Harvey, P response to consultation](#), p.1.

¹⁶³ [ITV response to consultation](#), p.2.

¹⁶⁴ [Channel 4 response to consultation](#), p.36.

¹⁶⁵ [CMA advises government on new regulatory regime for tech giants - GOV.UK \(www.gov.uk\)](#).

¹⁶⁶ [BFI response to consultation](#), p.7.

from over the top services (OTT). It is crucial that the PSB system in the UK is not allowed to fail as a result of unregulated market forces which are based on consumer and commercial interest alone.”¹⁶⁷ **Voice of the Listener and Viewer**

“the discussions about PSM regulation need to take place alongside and in conjunction with debates about the regulation of global platforms. Particularly with respect to data and fair-trading rules.”¹⁶⁸ **Professor Catherine Johnson**

- 6.33 These issues are all relevant to Ofcom’s ongoing work programme, and to the growing importance of regulatory cooperation. This has an increasingly significant role in enabling trust in digital technology and making sure digital platforms compete and innovate to bring benefits for the people who use them. Last year we established the Digital Regulation Cooperation Forum (DRCF) with the Information Commissioner’s Office (ICO) and the Competition and Markets Authority (CMA).¹⁶⁹ We are also working with the Government and the UK’s new Digital Markets Unit (DMU) established in the CMA, as the Government develop a new pro-competition regime for digital markets.
- 6.34 By building on our sector expertise and working effectively together, we will be better able to respond to the scale and global nature of large digital platforms and the speed at which they innovate. This will support more coherent and coordinated regulatory approaches.

Recommendations to Government

New legislation is needed to update rules to include digital platforms so that:

- PSM providers are required to offer their on-demand services to popular TV platforms;
- platforms are required to include and give appropriate prominence to PSM content and to negotiate with PSM providers;
- there is an effective enforcement and dispute resolution process in place.

¹⁶⁷ [VLV response to consultation](#), p.2.

¹⁶⁸ [Johnson, Prof C response to consultation](#), p.5.

¹⁶⁹ The Financial Conduct Authority has also since joined the DRCF. More details on the forum and its plan of work can be found [here](#).

7. Producing public service media content

In this section we:

- Highlight the success of UK production and the vital role public service broadcasters and the regulatory framework have played in ensuring this diverse sector continues to thrive and flourish.
- Explain why we think legislation should be amended so that the same requirements apply to all PSM content, whether it's commissioned for broadcast TV or online services.
- Examine the case for updating the commissioning guidance for PSM providers and options for changes to the independent production quota.

- 7.1 The UK's production sector is a diverse, competitive and internationally successful part of the creative economy, projecting the UK positively around the world. Broadcasters and producers have told us about the vital role which public service broadcasting and the regulatory framework have played in the sector's success and growth. Our aim is to ensure the sector continues to flourish and deliver for audiences.
- 7.2 In February this year, we published a [call for evidence](#) to understand the continuing effectiveness of regulation on programme commissioning by public service broadcasters. In this section we set out our conclusions, taking into account both the responses we received and discussions with a wide range of stakeholders across the UK who we met as part of this review. A more detailed annex about our findings is set out at [Annex 2](#).
- 7.3 We last reviewed the relationship between the UK public service broadcasters and the independent production sector in 2015.¹⁷⁰ We said then that regulation had helped to secure a vibrant and open sector, but noted two potential areas of concern. We said it was possible that consolidation in the independent production sector could in future undermine the ability of SMEs to compete against larger producers who were also protected by the regulatory regime. We also identified a risk that commercial agreements about the exploitation of on-demand rights would become more difficult as broadcasters increasingly sought access to those rights for their own services.
- 7.4 In our call for evidence, we asked whether aspects of the current framework, including [Ofcom's guidance](#) to public service broadcasters about commissioning from qualifying independent producers and the scope of related quotas, remained effective.
- 7.5 We had 18 direct responses, with many others raising points in their consultation submissions. It was clear that there were two main areas of interest – our guidance on commissioning of independent productions and the independent production quota.

¹⁷⁰ Ofcom, [Review of the operation of the television production sector](#), 2015.

Ofcom's Guidance on the Commissioning of Independent Productions

- 7.6 The Communication Act includes a set of requirements about programme commissioning by public service broadcasters from independent producers.¹⁷¹ These include, for example, an expectation that commissioning arrangements will be clear about the rights which public service broadcasters are purchasing and the duration for which they are doing so. Public service broadcasters are required to submit Codes of Practice to Ofcom explaining how they will comply with these requirements. Ofcom provides general [guidance](#) to public service broadcasters about how to do so.
- 7.7 The Codes are intended to be available to producers when negotiating deals. In practice, the main public service broadcasters have each generally agreed a set of standard terms (known as the Terms of Trade) with Pact, the largest trade association for the production sector. They have then submitted revised Codes to Ofcom which reflect the individual agreements reached with Pact.
- 7.8 Our call for evidence asked whether, given changes to audience viewing habits and wider market developments, there were any aspects of Ofcom's Guidance we should look to update.

Stakeholder views

- 7.9 Almost all respondents agreed a guidance-based framework giving producers clarity on the rights and duration over the programmes they made remains appropriate. However, there were divergent views on whether the Guidance is still effective, given changing market conditions.
- 7.10 Pact argued that the regulations have proved flexible enough to allow deals between public service broadcasters and independent producers to develop over time, pointing to agreements it had made with Channel 4 and the BBC in the last two years.¹⁷² Pact queried whether any change would upset the existing balance in the relationship between producers and commissioners and, along with TAC,¹⁷³ argued that any change could have a negative effect on a post-pandemic recovery.¹⁷⁴ Screen Scotland considered alternative approaches would be more appropriate to ensure PSM providers remain competitive.

¹⁷¹ See paragraphs A5.25-A5.30 of the [PSB Regulatory Framework Annex 5](#).

¹⁷² [Pact response to call for evidence](#), p.11.

¹⁷³ Teledwyr Annibynol Cymru (TAC) represents independent producers based in Wales.

¹⁷⁴ [TAC response to call for evidence](#), p.2; [Pact response to call for evidence](#), p.20

“The Codes of Practice that PSBs use to negotiate with indies are flexible and high level enough for both PSBs and indies to negotiate adapting to audience consumption patterns and technology changes.”¹⁷⁵ **Pact**

PSBs should consider the following to ensure they remain competitive: “(a) be more responsive and supportive to those companies that devise, develop and create the content they need to have in the schedules/carousels to win audiences back; and (b) commission content in as pain free a way as possible – working with indies, being responsive, collaborative and supportive.”¹⁷⁶ **Screen Scotland**

- 7.11 In contrast, each of the public service broadcasters called for the scope of rights in the primary licences they negotiated with producers to be modernised, noting that audience expectations and choices had fundamentally changed since 2003 when the current legislation came into force. For example, ITV said the existing regime artificially impacted its commissioning strategy, leading it to prioritise programming for slots on its main broadcast TV channel when more compelling alternatives might otherwise have been available.¹⁷⁷ Channel 4 likewise considered they were at a commercial disadvantage compared to other players in the market.

“In contrast, the SVoDs, who are not subject to the regulations, are able to routinely secure significantly longer licence periods for content. This imbalance is brought into stark contrast in the case of co-productions where PSBs and SVoDs can put in equal levels of funding but receive vastly different package of rights as a result of the current framework.”¹⁷⁸ **Channel 4**

“Specifically, we would recommend that Ofcom update its 2007 guidance to PSBs so that primary rights agreed between broadcaster and independent producer: better reflect viewer expectations, enabling audiences to manage the wealth of choice they are now faced with across a huge variety of platforms and providers [...]”¹⁷⁹ **ViacomCBS**

Ofcom’s response

- 7.12 One of the core themes we have examined in this review is that, for an ever-increasing number of viewers, TV schedules no longer dictate what they watch or when they do so. As online viewing grows, the public service broadcasters’ own on-demand players become an ever more important part of their offer to audiences. In 2020/21, viewers made 6.1 billion requests to stream programmes on BBC iPlayer, a 28% year-on-year increase.¹⁸⁰ Many

¹⁷⁵ [Pact response to call for evidence](#), p.11.

¹⁷⁶ [Screen Scotland response to call for evidence](#), p.2.

¹⁷⁷ [ITV response to call for evidence](#), p.4.

¹⁷⁸ [Channel 4 response to consultation](#), p.44.

¹⁷⁹ [ViacomCBS response to call for evidence](#), p.2.

¹⁸⁰ BBC, 2021. [BBC Group Annual Report and Accounts 2020/21](#), p.9.

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programmes now attract significant viewing long after their first transmission on broadcast television. For example, archive content including *The Inbetweeners*, *Scrubs* and *Friday Night Dinner* has been responsible for much of the growth in All 4 viewing.¹⁸¹

- 7.13 We recognise public service broadcasters will need to use different platforms to reach all audiences, including showing programming exclusively online. There is a risk that maintaining a broadcast TV-focused approach could have the effect of stifling innovation. We recommend that Government modernises legislation to ensure that the same requirements apply to all PSM content, regardless of whether it has been commissioned for broadcast TV or online. We believe this would help to ensure PSM Code of Practice requirements reflect viewer expectations. We will be ready to update our commissioning guidance once legislation is changed.
- 7.14 Stakeholders told us that the exact rights packages different PSM providers want, vary depending on their individual strategies. However, the length of time over which they are able to stream content has become increasingly important. EY research found a similar trend among overseas public service broadcasters, who “emphasised the importance... in having the rights to make content available on their on-demand services for a longer period in response to growing ‘binge viewing’ behaviours and box set watching among audiences.”¹⁸²
- 7.15 As the market changes, the contractual terms between public service broadcasters and independent producers need to be updated to deliver for audiences. Although broadcasters and producers have agreed changes from time to time, we are concerned that in some cases negotiations have not moved swiftly enough.
- 7.16 It is important that PSM providers and producers reach timely agreements to ensure audience needs are met. If agreements cannot be reached, PSM providers can seek approval from Ofcom to make changes to their Codes. Ofcom will approve suitable changes and update our guidance if necessary.

The independent production quota

- 7.17 Each year, public service channels must commit to commissioning a minimum of 25% of their qualifying programming from “a range and diversity of independent productions.”¹⁸³
- 7.18 Our call for evidence asked whether we should recommend changes either to the level of the independent production quota or the definitions of ‘qualifying programmes’ or ‘independent production’ set out in legislation.¹⁸⁴

¹⁸¹ Channel 4, 2020. [Channel Four Television Corporation Report and Financial Statements 2020](#), p.71.

¹⁸² EY report for Ofcom, 2020. [International perspectives on public service broadcasting](#), p.12.

¹⁸³ S. 277 of the Act. Equivalent provisions also apply to the BBC and to S4C.

¹⁸⁴ The definition of an ‘independent producer’ is one who is not an employee of a broadcaster; does not have a shareholding greater than 25% in a broadcaster; and is not a body corporate in which a broadcaster has a shareholding greater than 25% (or in which two or more broadcasters have aggregate shareholdings greater than 50%). Qualifying programmes’ refers to those programming hours that can be used to count towards production quotas. The definition of qualifying programmes has been drawn relatively widely, so as to capture as much origination as possible (excluding, for

Stakeholder views on the quota

- 7.19 The majority of respondents to our consultation, including Pact and most public service broadcasters, did not propose changes to either the level or scope of the independent production quota.¹⁸⁵

“The current definition of independent production is clear, encourages investment in the sector and addresses vertical integration.”¹⁸⁶ **Pact**

“We do not believe that changes are required to these definitions to allow the BBC to continue supporting British talent and supporting a diverse creative economy.”¹⁸⁷ **BBC**

- 7.20 However, other stakeholders did suggest amendments. ViacomCBS, Voice of the Listener and Viewer, Screen Scotland and the Media Reform Coalition all proposed the definition of independent production should be amended to focus on smaller producers.¹⁸⁸

“If the primary objective of regulatory intervention on the production sector is to inhibit the market power of PSBs against smaller production companies, then such an intervention is necessary.”¹⁸⁹ **ViacomCBS**

- 7.21 ITN and STV, both non-qualifying producers under the existing regime, suggested the distinction between qualifying and non-qualifying independent producers should be revised to remove disadvantages they face, relative to qualifying independents.¹⁹⁰ Others proposed a geographic element to the quota. For example, the Indie Club called for a new definition for qualifying independent producers to include broadcaster-owned companies creating jobs in the Nations and Regions.¹⁹¹

example, acquired programmes, repeats and news). These definitions are set by the Secretary of State by order (S.I. 1408/91, as subsequently amended).

¹⁸⁵ [Channel 4 response to consultation](#), p.46.

¹⁸⁶ [Pact response to call for evidence](#), p.25.

¹⁸⁷ [BBC response to call for evidence](#), p.5.

¹⁸⁸ [VLV response to call for evidence](#), p.5-6; [Screen Scotland response to call for evidence](#), p.4-5; [Media Reform Coalition response to call for evidence](#), p.6.

¹⁸⁹ [ViacomCBS response to call for evidence](#), p.5.

¹⁹⁰ [STV response to call for evidence](#), p.5; [ITN response to call for evidence](#), p.2.

¹⁹¹ [Campaign for Regional Broadcasting Midlands response to call for evidence](#), p.3.

“The nations and regions need PSMs and large independent production companies to sit at the heart of production centres around the UK, to build local talent bases of programme makers, create training opportunities and encourage other companies to invest.[...] programmes [qualifying under a new definition] should meet all three of Ofcom’s new criteria as to what defines an Out of London production.”¹⁹² **Indie Club**

Ofcom’s response

- 7.22 We recognise the existing requirements have some weaknesses. The quota currently applies to both large and small independent producers, and therefore does not offer targeted support to SMEs, as multinational producers also qualify. Also, because eligibility is determined by the ‘qualifying’ status of an independent producer, compliance for public service broadcasters is sensitive to changes in the ownership structure of their suppliers.
- 7.23 Our analysis suggests it may be possible to introduce more targeted measures to achieve specific goals, for example focusing support on SMEs based across the UK to encourage creative diversity. However, we think there are risks that changes to the quota definition could result in additional compliance and monitoring costs, or encourage circumvention of a revised quota and increase the risk of gaming.
- 7.24 Alternatively, many of the objectives of the quota – such as promoting cultural diversity, fostering new talent and tackling vertical integration – could be achieved through the introduction of measures such as external commissioning requirements on individual PSM providers. Under this model, requirements would be focused on ensuring they commission from producers with whom they did not have a direct affiliation. However, the potential effects would be quite different on individual public service broadcasters, with ITV potentially most affected.
- 7.25 In our last review in 2015, we said that regulation had proved critical in incentivising small producers to enter the market, stimulating talent coming into the sector (including in at-risk genres) and encouraging growth. We said that although the quota did not explicitly require the use of SME producers, the fact that some of the largest independents were owned by broadcasters, and therefore did not qualify, helped to balance the effects of vertical integration.¹⁹³
- 7.26 Since that review, evidence suggests that there has been a steady flow of new entrants into the independent production sector. Analysis produced by Oliver & Ohlbaum for Pact suggests the overall level of SMEs entering and leaving the market remained balanced between 2015 and 2019.¹⁹⁴ The public service broadcasters have also continued to work with more producers and commission a greater number of hours of UK content than any

¹⁹² [Indie Club response to call for evidence](#), p.2.

¹⁹³ In the UK, sections 382 and 465 of the Companies Act 2006 define an SME as a company with a turnover of not more than £25.9m, a balance sheet total of not more than £12.9m, and not more than 250 employees.

¹⁹⁴ Oliver & Ohlbaum report for Pact 2021. Separately, Pact have told us that in May 2021 it had 583 members.

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other commissioners.¹⁹⁵ The latest annual Pact Census estimates smaller producers (i.e. those with a turnover below £25m) account for just over a third (36%) of producer revenues.

7.27 We are mindful the quota in its current form has been crucial in supporting the long-term development of the independent production sector. Our review shows it continues to retain the support of stakeholders from across the industry. We have no evidence to suggest the quota is having a harmful impact on the production sector. Measures such as the quota will continue to be important in the future if regulation is to play its part in incentivising producers, encouraging creative talent to join the industry and promoting growth.

7.28 However, as the market continues to develop, the need for a regulatory approach which is able to adapt is likely to increase. Currently, the independent production quota is specified in legislation which means amendments require legislative change. In **Section 5**, we explained why we consider legislation should be updated to take into account the growing importance of online content delivery. In the case of the quota, this should also give Ofcom the responsibility to update obligations when necessary to ensure policy objectives, such as promoting creativity and stimulating the growth of SMEs, continue to be met. It will be important to provide certainty for the market, but also to ensure that regulation does not prevent changes which are in the interests of viewers.

Recommendations to Government

New legislation is needed to update the rules on production of PSM content, so that:

- PSM requirements for commissioning from independent producers apply to both broadcast TV and online services;
- There is flexibility to change the rules in line with market trends and policy objectives.

¹⁹⁵ Ofcom. 2020. [Small Screen: Big Debate consultation – Annex 7](#), paragraphs A7.38-A7.39.

8. Delivering public service media for UK audiences

In this section we:

- Discuss the need for modernised PSM requirements which enable PSM providers to deliver obligations across their broadcast TV and online services.
- Set out the need for a transparent approach to PSM planning and performance reporting to ensure PSM providers are held accountable for delivering against their obligations.

- 8.1 In December we said updated PSM requirements should be ‘service neutral’, giving providers some flexibility to decide how to deliver their PSM objectives.¹⁹⁶ We said this would help ensure the focus of PSM remained on audiences regardless of the platform they used to watch programmes. We highlighted the importance of underpinning this approach with a clear accountability and performance framework.
- 8.2 In **Section 5** we set out recommendations on how a new regulatory framework could be structured to support the transition from public service broadcasting to public service media. In this section we explain how we would look to apply that framework to ensure the delivery of content objectives across broadcast TV and online services.

Delivering PSM for audiences across different platforms

- 8.3 We believe that an effective PSM system should be modernised to deliver the updated set of core objectives discussed in **Section 4**. PSM providers will then require clear, transparent obligations to reflect these, with some scope to determine how best to fulfil them across their portfolio of online and broadcast TV services. In our consultation we proposed moving from a system focused on quota obligations on TV channels to a mixture of both quantitative and qualitative obligations to be delivered across broadcast TV and online.
- 8.4 Several stakeholders agreed with the principle of a more flexible approach to delivery across platforms. Many noted that traditional quotas can be restrictive, often focusing on measures such as the number of hours broadcast, regardless of whether these are effective in meeting audience needs. In contrast, qualitative requirements (for example, focused on measures such as the quality and impact of programming) have the potential to encourage innovation by PSM providers, to ensure they meet the expectations of different audiences however they choose to access content.

¹⁹⁶ We refer to service neutral as delivery via broadcast TV or online.

“a more flexible delivery approach could help achieve positive outcomes by increasing young peoples’ engagement with PSBs. Quotas do not necessarily always stimulate quality and creativity, so encouraging and giving the broadcasters more freedom to develop and implement delivery strategies which reflect how young people find and consume public service broadcast/media content could be an effective way to improve reach to those audiences.”¹⁹⁷ **Scottish Government**

“a clear accountable framework should include qualitative and quantitative quotas based around content, rather than merely focusing on where content is put.”¹⁹⁸

Three Stones Media

“[...] a narrow focus on quantitative measures may mask wider opportunities to achieve positive outcomes for Wales through public service broadcasting delivery. There may be value in focusing on metrics that capture more qualitative dimensions, such as the quality of content, portrayal and relatability.”¹⁹⁹ **Welsh Government**

- 8.5 However, some respondents identified risks in a primarily qualitative approach, arguing this could make performance measurement and effective compliance assessment more challenging. A recurrent concern was that fewer prescriptive requirements could lead to a decline in provision of certain genres, for example, religious and children’s programming which have lower commercial value.²⁰⁰

“[...] the 2003 Communications Act [...] removed specific quota obligations on ITV to provide children’s content [...]. The UK’s children’s content sector has struggled ever since.”²⁰¹ **Create Central**

“There is a real risk that Ofcom’s approach reduces the impact of PSB content produced, rather than maintains or strengthens it. Commercially oriented PSBs may be incentivised to shift public service content away from high value slots, and loosely defined requirements raise questions over effective enforcement.”²⁰² **Sky**

“[...] any desire to increase flexibility in the system should not lead to a watering down of public service content. [...] unchecked [PSM providers] will inevitably seek to maximise commercial returns by carrying the most commercially lucrative content most prominently.”²⁰³ **COBA**

- 8.6 In their responses, PSM providers acknowledged that a revised approach was likely to require a mixture of qualitative and quantitative measures:

¹⁹⁷ [Scottish Government response to consultation](#), p.4.

¹⁹⁸ [Three Stones Media response to consultation](#), p.1.

¹⁹⁹ [Welsh Government response to consultation](#), p.5.

²⁰⁰ [The Sandford St Martin Trust response to consultation](#), p.5; [Steemers, Prof J response to consultation](#), p.3.

²⁰¹ [Create Central response to consultation](#), p.3.

²⁰² [Sky response to consultation](#), p.2.

²⁰³ [COBA response to consultation](#), p.4.

“In practice, there will still be a role for PSM providers to have specific commitments that guarantee provision of certain types of content of high value to UK viewers and that the market may not otherwise deliver – like news, or investment outside of London.”²⁰⁴ **Channel 4**

“We recognise that even under the more flexible regime [...] there will continue to be a need for hard edged quotas and obligations to ensure a baseline delivery by ITV.”²⁰⁵ **ITV**

- 8.7 We consider that there is a valid concern some audiences could lose out if providers favour online over broadcast TV to target specific groups. In particular, we would be concerned about the possibility that this could lead to a decline in some services, resulting in certain audiences losing out. Our research shows that not all audiences have ready access to the internet; 6% of households do not have access to the internet at home, and this is higher for households in lower socio-economic groups (11%).²⁰⁶ Equally 16% of UK adults who use on-demand services do not watch broadcast television.²⁰⁷
- 8.8 Our view is that some quantitative requirements will continue to be needed to safeguard audiences and ensure they continue to be well served with a broad range of content. These requirements may be needed in some genres, for example in national and regional news or for content produced in the nations and regions.
- 8.9 Taking into account stakeholder views, we continue to think that a revised approach to PSM delivery, as the international examples below illustrate, offers significant potential to increase benefits for audiences. A mix of clear quantitative requirements, particularly in areas such as news provision, and more flexible qualitative requirements which incentivise the delivery of high-quality, distinctive content and which provide more flexibility for PSM providers to deliver their obligations across broadcast TV and online services, will deliver the best outcomes for viewers.

International examples

- **Iceland:** Following a 2012-13 review, the regulatory framework for the Icelandic PSB, RUV, now includes fewer quotas and focuses on the PSB's choices of how to meet its obligations. The framework sets out the objectives and RUV then sets out what services it will deliver to meet those objectives.
- **Canada:** New legislation, which was proposed last year to update the Broadcasting Act, would give the regulator, CRTC, the tools necessary to develop future-looking regulatory approaches. As far as possible, these would include regulation based on outcomes, with the CRTC assessing specific results rather than being prescriptive as to how these are achieved.
- **Switzerland:** SRG, the Swiss PSB, is now required to develop its own measurements for outcome-based assessment, following publication of a 2016 review and a new licence

²⁰⁴ [Channel 4 response to consultation](#), p.21.

²⁰⁵ [ITV response to consultation](#), p.62.

²⁰⁶ Ofcom, 2021. [Technology Tracker CATI omnibus survey - 12 February to 5 March 2021](#), KDR06.

²⁰⁷ Analysis using Ofcom Technology Tracker 2021 data.

agreement in 2018. It is required to set out a strategy with its own defined goals, and report against these in future.

Ensuring Public Service Media providers deliver their obligations

- 8.10 Stakeholders agree there needs to be clear expectations of PSM providers to help maintain confidence in the PSM system. Many suggested that future assessment of the system would require both clear plans from PSM providers and close monitoring by Ofcom.

“[...] it is crucial that PSM providers set out plans which are clear and have measurable objectives. TAC’s opinion is that the current BBC annual plan is heavy on generic text and relatively light on clear and measurable achievements and spending levels in the nations and regions, and this format is not sufficiently measurable and robust.”²⁰⁸ **TAC**

“We would urge that any new legislative regime contains sufficient specificity to be able to guarantee desired outcomes. [...] Stipulating clear and measurable outcomes, across genres will remain important – even if content is allowed to be delivered across a wider variety of outlets.”²⁰⁹ **Create Central**

- 8.11 We agree that an updated regulatory framework will require additional transparency measures to ensure PSM providers comply with their requirements. They will need to publish plans explaining how they intend to meet their obligations across their portfolio of services. We would expect them to set out the metrics they plan to use to demonstrate delivery against their obligations. We acknowledge the VLV’s concern that there is currently no standardised approach to measuring PSM delivery across platforms.²¹⁰ Some consistent metrics across providers would enable us to draw comparisons and better assess the system as a whole. We discuss performance measurement further below.
- 8.12 We recognise that there is a delicate balance to be struck between holding the providers to account by scrutinising their plans, while not unduly influencing their approach before they have had a chance to deliver. Our assessment would likely focus on whether plans are based on reasonable assumptions and metrics and if they adequately explain how the provider will deliver their requirements.
- 8.13 There will also be a need for PSM providers to report on their performance to demonstrate they have fulfilled their obligations through their broadcast TV and online service.²¹¹ We would use this to monitor compliance so that if we identified a problem, we could

²⁰⁸ [TAC response to consultation](#), p.6.

²⁰⁹ [Create Central response to consultation](#), p.3.

²¹⁰ [VLV response to consultation](#), p.17.

²¹¹ Current reporting requirements differ between the different PSB providers. See paragraphs A5.23-A5.24 of the [PSB Regulatory Framework Annex 5](#). In [Channel 4’s response to our consultation](#) it said: “Channel 4’s remit was updated in the 2010 Digital Economy Act to give it a new duty to ‘broadcast or distribute content on a range of different delivery platforms’. This was underpinned by the Statement of Media Content Policy (SMCP), which gave Channel 4 greater flexibility to report how it delivered against its remit across a wider range of platforms.” (p.21)

intervene in a timely manner. For the BBC, we are already considering how the existing requirements in its Operating Licence could be updated. We would also issue further guidance to PSM providers about our expectations for both setting out plans and reporting on performance if necessary.

- 8.14 Alongside this, Ofcom will closely monitor the performance of the PSM system as a whole to ensure it continues to meet audience needs. We currently have a duty to review the delivery of the public service broadcasting remit at least every five years,²¹² and our most recent [review](#) was published in February 2020. We recommend this duty remains, but given the fast-changing nature of the sector it may be necessary to review specific areas more frequently – particularly if there is evidence of any concerns arising.
- 8.15 These reviews would also give us an opportunity to take a more strategic view of the sector, as well as the individual providers' contributions to the PSM system, to identify any areas of concern where new obligations might be needed. We would expect these reviews to draw on evidence from the PSM providers' reporting, our own research and views from stakeholders. We will work with the Government so that we have the necessary powers to ensure audience needs are being met.²¹³ This should be supported with a power for Ofcom to intervene if we consider providers' plans are insufficient to do so.²¹⁴ This should include the ability to impose remedial action, for example by setting new requirements and / or issuing financial penalties if necessary.

Future performance measurement

“The move to digital is not incremental, it’s transformative, and the measures of success for public service broadcasters need to change in response to the market context. The purpose of public service media can’t be to aggregate attention in bulk, or to attract a large proportion of viewing time, because these metrics don’t capture the distinct value of public service broadcasting and justify its long-term funding. So value needs to be measured in a different way.”²¹⁵ **Rasmus Nielsen, Reuters Institute for the Study of Journalism**

- 8.16 Our assessment of PSM provider performance will vary by the type of obligation. Measuring compliance with quotas is generally straightforward and where they continue to apply we will hold providers to account for them. However, performance measurement is broader than this, as quotas are not always the best way to ensure effectiveness of the PSM system or individual PSM providers. For example, in relation to news, the level of output is important but also the overall reach, quality and impact would be relevant.

²¹² Sections 264 and 264A of the Act.

²¹³ This was supported by [Ofcom's Advisory Committee for England response to consultation](#), p.1; [Ofcom's Advisory Committee for Wales response to consultation](#), p.6; [Creative Industries Foundation response to consultation](#), p.3; [Directors UK response to consultation](#), p.2; [Scottish Government response to consultation](#), p.9.

²¹⁴ We note that we would not expect any intervention in relation to PSM providers' plans to be on editorial grounds.

²¹⁵ EY report for Ofcom, 2020. [International perspectives on public service broadcasting](#), p.23.

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“In this new marketplace it is not just a case of putting PSM content out, but making sure it is received and seen by a variety of audiences who are watching in different ways. Going forwards accountability measures will need to draw on a combination of qualitative outcomes, alongside some quota requirements to support delivery of niche content.”²¹⁶ **Directors UK**

- 8.17 Stakeholders said that the focus of the framework should be output and impact.²¹⁷ We agree and consider that in the future, being able to accurately measure and analyse how PSMs are reaching different audiences and meeting audience needs across services and platforms will become increasingly important.²¹⁸ We also need to ensure that any measurement challenges do not disincentivise PSM providers from innovating and taking risks.
- 8.18 The PSM providers, in particular the BBC and Channel 4, are also thinking more broadly about the social and personal value they deliver and how it can be measured across their services. For example, Channel 4 has previously used a metric that includes social media traffic, bespoke audience research and registered online users to assess which programmes people have talked about the most, face-to-face or on social media.²¹⁹ We will continue to do further work in this area with industry on this area.
- 8.19 Following publication of this statement, we will be considering the renewal of Channel 3, 4 and 5 as well as updating the BBC Operating Licence. We discuss this in **Section 10**.

Recommendations to Government

The rules for PSM providers need to be updated, so that:

- their requirements ensure online and broadcast TV audiences benefit from PSM;
- requirements allow each PSM provider to adapt their services to meet changing audience needs;
- PSM providers set out their plans to deliver their PSM objectives and report annually on their performance;
- Ofcom’s regulatory role is updated to reflect new legislation, so we can hold PSM providers to account and have the flexibility to change rules in line with sector trends.

²¹⁶ [Directors UK response to consultation](#), p.2.

²¹⁷ [Digital UK response to consultation](#), p.14; [TAC response to consultation](#), p.7.

²¹⁸ This is an area where work is already on-going, for example [BARB’s Project Dovetail](#) which was established to deliver the total reach of programme audiences across multiple screens (TV sets, tablets, PCs and smartphones).

²¹⁹ Channel 4, 2020. 2019, p.97.

9. Supporting innovation in public service media

In this section we:

- Discuss how existing proposals may not be sufficient to ensure sustainability of the future PSM system, so further measures such as strategic partnerships with others may be needed.
- Consider how new complementary PSM content could help to boost the resilience and long-term sustainability of PSM.
- Highlight that incentives such as tax relief and contestable funds could support PSM provision.

9.1 The proposals we have outlined in this document so far are designed to help deliver a sustainable PSM system. There may still be risks that these changes, although helpful, will not be sufficient to ensure PSM remains sustainable in the longer term. We set out how action by industry, Government and Ofcom might help strengthen and enhance innovation in PSM provision.

The PSM providers must continue to transform

9.2 In their responses, the existing PSM providers were clear that updating the regulation around prominence and availability, would enable them to reach audiences and deliver their remit.²²⁰ They also explained how they are innovating and developing their on-demand services.

“Our plan is to develop S4C Clic as a destination for a wider range of Welsh language content, including digital News, S4C Local, short- and mid-form material and suitable content from external partners. The data we collect through S4C Clic will enable us to market and tailor content which is targeted at the audience according to their viewing habits.”²²¹ **S4C**

9.3 The BBC said it was making iPlayer more relevant to individuals through product development, marketing and targeted curation, with “a unique blend of human and algorithmic curation”²²² and ViacomCBS has committed to better curation and personalisation of Channel 5’s My5 service.²²³ ITV, STV and Channel 4 are also developing their digital strategies.

9.4 PSM providers have familiar brands and remain very popular with audiences. ITV told us 99% of people in TV owning households watched its services in 2020 and 37m did so each

²²⁰ [S4C response to consultation](#), p.3; [ITV response to consultation](#), p.9-10.

²²¹ [S4C response to consultation](#), p.5.

²²² BBC, 2021. [BBC Annual Plan 2021/22](#), p.56.

²²³ [ViacomCBS response to consultation](#), p.4.

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week. The latest PSB tracker showed that 75% of respondents accessed PSB content regularly.²²⁴

- 9.5 As they have developed their online offer, PSM providers' strategies have mainly been focused on reaching audiences through their on-demand players. This approach ensures that audiences can access the full range of PSM content and also attributes a more direct link between the programmes they are watching and the broadcaster. It also enables the PSM providers to maintain a direct relationship with their audiences.

"Maintaining attribution and credit is particularly important for the BBC as audiences need to recognise the specific value they receive from their licence fee."²²⁵ **BBC**

- 9.6 The increased choice audiences now have has already resulted in some switching off from PSM providers. This is particularly the case for younger audiences; for example, time spent watching the BBC broadcast TV channels each week by 16-34s declined by 25% between 2017-20.²²⁶ This trend is likely to increase if future generations display similar habits.²²⁷ Younger audiences in particular have reported that while they may watch content, originally commissioned by public service broadcasters, on SVoD services, some feel the existing public service broadcaster brands are for others and not "for them". For example, our research found that 11-16 year olds were most familiar with Netflix and YouTube, with BBC iPlayer being ranked fifth and ITV Hub seventh.²²⁸
- 9.7 There is further evidence emerging of a broader trend of other demographic groups, not just younger people, becoming disenfranchised and spending less time with PSM providers and increasing their use of SVoDs such as Netflix. For example, the amount of time the over 54s have spent watching non-broadcast content on TV (which includes viewing to SVoD services) has been rising steadily each year.²²⁹ SVoDs are increasingly commissioning content for the 35-44s, reported as their fastest growing viewing age group.²³⁰ These trends have implications for future levels of engagement with the current PSM providers, and over time could result in a sustained decline overall.
- 9.8 PSM providers have been experimenting outside of their on-demand players. For example, Channel 4 has partnered with Snapchat and TikTok.²³¹ S4C's online only brand Hansh launched in 2017 operating across social media platforms and is aimed at young people aged 16-34; it has already attracted over a million views across its platforms.²³²

²²⁴ Ofcom, 2020. [PSB Tracker 2019 data tables](#), p.139. 'Regularly' was self-defined by respondents.

²²⁵ [BBC response to consultation](#), p.26.

²²⁶ BARB.

²²⁷ Ofcom, 2020. [Small Screen: Big Debate Consultation](#), paragraph 7.4.

²²⁸ Ofcom, 2021. [BBC Teen Tracker 2020/21](#), Q13, Table 22.

²²⁹ BARB. Non broadcast content watched on the TV set: TV set in use but content cannot be audio-matched or otherwise identified. Includes gaming, viewing DVDs/box sets/archives, SVoD, YouTube, some broadcaster archive content, apps on smart TVs and navigation around EPG guides where there is no in-picture broadcast content.

²³⁰ The Sunday Telegraph, 9 May 2021. Netflix and Amazon chase older viewers who find BBC a turn-off.

²³¹ Channel 4 News Release, 4 June 2020. [Channel 4 partners with Snap Inc. to bring a raft of new shows to Discover](#); Channel 4 News Release, 16 March 2021. [Channel 4 and E4 launch on TikTok and become partners to #LearnonTikTok](#).

²³² S4C Press Release, 26 March 2020. [Hansh reaches 1 million views in a month](#).

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- 9.9 There is a significant challenge for PSM providers who still have to deliver programming for broadcast TV audiences, whilst at the same time competing with global players, who provide on-demand, social media and gaming services. Questions have been raised about whether PSM providers will be able to transform sufficiently to serve all these audiences, given the substantive costs involved.

“Although younger PSB audiences are declining, much of this can be put down to platforms rather than content. Fewer people listen to Radio One on an actual radio but many still listen to its content via BBC Sounds and many also watch BBC programmes on YouTube. They are still reaping the benefits of PSB, just not the way previous generations would have. The key is to evolve both content and the technology to access it.”²³³ **NUJ**

- 9.10 Delivering PSM content on social media or other platforms outside of the PSM on-demand players may not be commercially viable as it can involve revenue sharing arrangements. In some cases, it can involve the commercial PSM providers being asked to give up a substantial share of their revenue to the hosting partner or platform.

“It cannot be right that having taken all of the risk to invest in the creation and production of high-quality content that platforms, who take none of the risk but gain significant benefit from having high-quality PSM content on their platform, can take a 45% share of the revenue.”²³⁴ **Channel 4**

- 9.11 The BBC said its research indicates that the ‘credit’ audiences give to the BBC for its content when they watch it on third party distribution platforms/services (rather than on BBC iPlayer for example) drops by up to 70%.²³⁵ The BBC argued that this had implications for audience views on the value for money of the licence fee.

New PSM provision

- 9.12 The recommendations set out earlier in this statement are urgently needed to update the existing legislative framework. However, given the scale of change in the sector, an update may not be sufficient to secure long term sustainability of the PSM system. In the remainder of this section we explore further opportunities for both Government and PSM providers to consider now, to address the challenges they face and support PSM in the longer term.
- 9.13 In our consultation we asked whether there might be benefits to complementing existing PSM with new provision. We said the use of certain incentives might help provide a greater variety of content to audiences, which could boost innovation and help with sustainability.

²³³ [NUJ response to consultation](#), p.4.

²³⁴ [Channel 4 response to consultation](#), p.35.

²³⁵ [BBC response to consultation](#), p.26.



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- 9.14 There was a strong consensus that any new PSM provision shouldn't be funded by top-slicing the BBC licence fee as this could weaken the existing system.²³⁶ We agree there would be risks to existing provision if top slicing was introduced and do not consider this to be consistent with strengthening existing PSM provision.

"Efforts to develop new streams of funding are necessary and welcome, but there is a very real danger that 'opportunities for new providers' could be interpreted as opportunities for redistribution of existing funds, more specifically the BBC's licence fee revenue. [...] [Where there is] competition for existing fund, [this] would inevitably dilute the ability of the BBC to deliver against its current remit."²³⁷

Professor Steven Barnett, University of Westminster

"[...] commercial companies should not be eligible for PSM funds except in the very specific circumstances of PSM commissioned production and co-production under PSM governance. There should be no competition for declining licence fee funding and all such funding should be used exclusively for the provision of PSM by, or on behalf of, the BBC."²³⁸ **Professor Jonathan Hardy, University of the Arts London**

- 9.15 It was suggested that an online levy on SVoDs could be used instead.²³⁹ This could help to fund specific UK PSM, including content targeted at younger audiences or local and regional content.

"...we recommended in our report that the Government set up a new fund, based on a levy on the revenues of the largest digital intermediaries. This would consist of a series of digital innovation grants that would be open to cultural institutions and other organisations who are not already engaged in commercial media activities to provide content that meets specific, defined public service objectives."²⁴⁰ **Lord Puttnam, Future of Public Service Television inquiry**

- 9.16 Some stakeholders said there was a risk of fragmentation if the future PSM system had a large number of different providers with content in numerous places. They argued it would weaken the benefits of prominence if it was given to additional new providers. We agree that any complementary or new provision should not undermine existing PSM provision but should enhance the current system.

²³⁶ [BBC response to consultation](#), p.30; [Liberal Democrats DCMS team response to consultation](#), p.4; [Children's Media Foundation response to consultation](#), p.6; [Barnett, Prof S response to consultation](#), p.7; [Hardy, Prof J response to consultation](#), p.7.

²³⁷ [Barnett, Prof S response to consultation](#), p.6.

²³⁸ [Hardy, Prof J response to consultation](#), p.4.

²³⁹ [TAC response to consultation](#), p.11; [A Future for Public Service Television: Content and Platforms in a Digital World response to consultation](#), p.3; [Balfour, F response to consultation](#), p.5.

²⁴⁰ [A Future for Public Service Television: Content and Platforms in a Digital World response to consultation](#), p.3-4.

Options for future complementary PSM provision

- 9.17 We consider there may be opportunities in the future to deliver PSM in different ways; we have identified a number of areas that Government, Ofcom and industry should consider for additional PSM provision:
- Opportunities for PSM providers to be incentivised to develop strategic partnerships to deliver new content and reach wider audiences.
 - How the contribution of PSM-like content from commercial broadcasters can be sustained.
 - Whether there are opportunities to encourage new PSM provision focused on particular types of content and / or targeted at specific audience groups.

Opportunities for PSM providers to develop ambitious strategic partnerships to reach wider audiences

- 9.18 We discussed in our consultation how strategic partnerships could help increase efficiencies, reduce costs and better serve audiences in a number of ways.
- 9.19 Since then, there have been further announcements of strategic partnerships and more recently for example, Channel 4 and Sky [announced](#) they have expanded their existing commercial partnership to cover content, technology and innovation. More Channel 4 content will be available to Sky audiences and Channel 4 will benefit from the opportunity to increase digital advertising revenues to support its Future4 strategy.
- 9.20 Further collaboration between PSM providers on data and audience research, as well as research and development (R&D), such as on new ways to reach audiences, could benefit the PSM system. Several stakeholders highlighted there was already a lot of collaboration between PSM providers but others suggested more was needed.²⁴¹ Stakeholders supported more data sharing,²⁴² including of audience data.²⁴³ We agree there are benefits to this where appropriate, as it can provide additional insight for commissioning and editorial decisions and can also help commercial decision making. For example, CFlight, an audience measurement system to be launched in the UK this autumn, should provide broadcasters and advertisers with additional insight.²⁴⁴

²⁴¹ For example, PSBs collaborate through Freeview and Britbox. [ITN response to consultation](#), p.18; [Michalis, Dr. M response to consultation](#), p.5; [BBC response to consultation](#), p.23. In addition, S4C and the BBC have a long-standing formal partnership and S4C receives funding through the licence fee. However, LG reported that a PSB R&D organisation in Germany was abolished due to lack of PSB support, [LG response to consultation](#), p.14.

²⁴² [ITN response to consultation](#), p.18; [Pact response to consultation](#), p.19. However, Pact also noted that often this data is commercially sensitive for suppliers, and said an impact assessment could be needed in the future.

²⁴³ [Michalis, Dr. M response to consultation](#), p.6.

²⁴⁴ CFlight is an audience measurement system for the UK commercial broadcasting sector. It captures audience data across platforms including BVODs. Mediatel News, June 2021. [CFlight alliance shows our regulated TV market can innovate](#).

“ITN welcomes any developments that would lead to true cross-platform data being shared alongside the existing data sharing arrangements that are in place.”²⁴⁵ **ITN**

“Pact supports additional data and pooling of knowledge that would help the broadcasters improve their VoD platforms, user recommendations and help to understand their audiences better.”²⁴⁶ **Pact**

- 9.21 There was also some support for partnerships in content creation, for example on the sharing of sports rights and partnerships between organisations, such as cultural institutions, charities or educational bodies which would increase public value.²⁴⁷

“Programmes produced via the [Open University/BBC partnership can] have a significant social impact through improving the civic understanding of viewers. The best recent example of this is Blue Planet II. The programme [...] had a huge impact in raising the profile of the issue of marine plastic pollution, [...] encouraging people to change their behaviour [...].”²⁴⁸ **Open University**

- 9.22 This could help deliver important socially valuable content which might not otherwise be commercially viable to reach a broader set of audiences through PSM providers.

- 9.23 Joint distribution could also benefit audiences. There was some support for a single PSM on-demand player, with some stakeholders saying that a single, easily navigable British alternative to some global SVoD services would be welcome and benefit audiences.²⁴⁹

“PSBs already collaborate with each other and with new providers [...]. Though this could be significantly improved through a single core entry point for PSM content [...]. This could further open-up new opportunities around searching for content in a way that does not have to be app-by-app, in line with consumer expectations [...].”

²⁵⁰ **techUK**

²⁴⁵ [ITN response to consultation](#), p.18.

²⁴⁶ [Pact response to consultation](#), p.19.

²⁴⁷ [Michalis, Dr M, response to consultation](#), p.5; [BBC response to consultation](#), p.28; [BT response to consultation](#), p.10; [Media Reform Coalition response to consultation](#), p.5; [Johnson, Prof C response to consultation](#), p.10; [Barnett, Prof S response to consultation](#), p.6; [VLV response to consultation](#), p.28; [Balfour, F response to consultation](#), p.4-5. [Diehl, C response to consultation](#), p.3

²⁴⁸ [Open University response to consultation](#), p.4.

²⁴⁹ [RNIB response to consultation](#), p.4; [Advisory Committee for Northern Ireland response to consultation](#), p. 11; [Directors UK response to consultation](#), p.10

²⁵⁰ [techUK response to consultation](#), p.11.

“We can also see the benefits to audiences (and in reducing duplication of efforts), of having one VOD “player” or entry point to access content from all of the PSBs. This would make finding PSM content in one place easier for audiences [...].”²⁵¹

Directors UK

- 9.24 One stakeholder said partnerships would still be insufficient to address ‘power imbalances’ between the PSMs and global platforms due to their scale.²⁵² Although supportive of a joint player, Directors UK also pointed to challenges around needing to manage commercial sensitivities between providers (for example, regarding data sharing and competition restrictions), and the importance of retaining a diversity of voices.²⁵³

“[...] the variety of PSB provision [...] allows each PSB to maintain direct relationships with their audiences [...], to exercise editorial control [...], to develop their own distinct brands and identities [...], and to be directly rewarded by audiences for their investment in content and innovative features [...]. Operating a single joint service or on-demand content service would risk diminishing these sources of value while exposing the joint service to all the same risks of platform disintermediation currently faced by the individual PSM services.”²⁵⁴ **ITV**

- 9.25 Strategic partnerships with online organisations could help the existing PSM providers to reach wider audiences, particularly if that online partner has an existing relationship with audiences who do not use PSM on-demand players. Incentives may be required to make this commercially attractive to PSM providers.

How the contribution of other UK broadcasters can be sustained

- 9.26 We highlighted in our consultation that the UK media sector has a unique blend of public and commercial TV and audio services that contribute to the broader creative economy.²⁵⁵ In **Section 4**, we also outlined the benefits of broader PSM-like provision from commercial broadcasters. These broadcasters demonstrate that there are commercial incentives to delivering some types of PSM, but it is dependent on continued financial viability.
- 9.27 Platforms, TV and radio broadcasters and local news providers all contribute to the UK media sector which, in many ways, reflects the principles of PSM. Stakeholders agreed that audiences benefit from existing commercial providers that provide PSM-like content. Radiocentre highlighted the contribution of commercial radio which, it says, provides on average 10 hours p/w per station of public value output such as news, travel and local events.²⁵⁶ The Local TV Network said that local TV services offer an extra tier of local journalism, addressing local issues and representing diversity within communities.²⁵⁷ Online

²⁵¹ [Directors UK response to consultation](#), p.10.

²⁵² [ITV response to consultation](#), p.47.

²⁵³ [Directors UK response to consultation](#), p.10.

²⁵⁴ [ITV response to consultation](#), p.7-8

²⁵⁵ Ofcom, December 2020. [Small Screen: Big Debate Consultation](#), p.2.

²⁵⁶ [Radiocentre response to consultation](#), p.2.

²⁵⁷ Local TV Network confidential response to consultation, p.1

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providers also contribute, with Google and YouTube highlighting the example of ‘FreeScienceLessons’ on the platform when schools closed due to Covid-19.²⁵⁸

- 9.28 Given the importance of this content, there may be a case for introducing new incentives to support continued provision, should it be needed in the future to boost PSM. In the sections below we set out the benefits of encouraging new provision and what incentives could be used to support additional PSM provision.

Benefits of encouraging new supplementary provision

- 9.29 New supplementary provision could help diversify risk, strengthen the system and improve sustainability as audiences seek a broader variety of content. It could also increase the number of voices and viewpoints which would help it appeal to a wider set of audiences.

Cultural institutions or bodies that want to produce public service-orientated digital content “could do much more if they were released into the networked world of public service media [...]. We propose, therefore, that these ‘new’ PSM providers would create partnerships and framework agreements with public service broadcasters and other platform owners to promote and distribute their content [...]”.²⁵⁹ **Lord Puttnam, Future of Public Service Television inquiry**

- 9.30 Supplementing the system with specific provision from smaller organisations could provide the future PSM system with more flexibility and agility – especially if they could address niche audience needs. Additional competition from new providers could also help increase quality and raise standards across the PSM system.

Regular reviews of the PSM system will be required

- 9.31 PSM reviews could be used to identify areas where additional provision might help ensure the system remains sustainable. This provision could have specific objectives, for example in areas such as providing content aimed at hard to reach audiences or content genres where there might be a future risk of insufficient provision; greater emphasis on diversity and nations and regions content; and/or a focus on driving innovation in PSM content delivery. There may also be opportunities to partner with the PSM providers to deliver further nation specific content, for example, with S4C or STV.
- 9.32 New legislation should ensure that Ofcom has the necessary information-gathering powers to assess the performance of any additional PSM provider and to review the need for any supplementary PSM provision.

²⁵⁸ [Google & YouTube response to consultation](#), p.9.

²⁵⁹ [A Future for Public Service Television: Content and Platforms in a Digital World response to consultation](#), p.4-5.

The use of incentives to support additional PSM provision

- 9.33 We commissioned EY to look at the different types of incentives used in five other sectors.²⁶⁰ This analysis, together with stakeholder responses and our own international research,²⁶¹ highlights ways that incentives could be used to benefit audiences and to strengthen the PSM system.
- 9.34 Incentives could be particularly important to encourage new complementary PSM provision. They are used across many industry sectors and range from legal or regulatory obligations, through to purely commercial profit driven incentives. Many are already in use across the media sector, but there may be potential for new ones to be introduced. They would need to be designed to ensure they don't undermine existing provision.

Contestable funds

- 9.35 These are financial incentives typically put in place by Government or industry bodies to achieve a specific outcome. Funds are allocated according to eligibility or through a competitive tender process. In the UK, examples include the [Young Audiences Content Fund](#), a three-year pilot scheme running until 2022 and administered by the BFI on behalf of the Government.²⁶² Similarly, in Northern Ireland there two established funds – The [Irish Language Broadcast Fund](#) (ILBF)²⁶³ and the [Ulster-Scots Broadcast Fund](#) (USBF)²⁶⁴ both of which are administered by Northern Ireland Screen. There is also a £3 million [Audio Content Fund](#) for creating original radio production in the UK. It is focused on production of distinctive, public service radio content for commercial and community radio. It provides £57 million of grant-in-aid contestable funding to produce distinctive, high quality content for audiences up to the age of 18.
- 9.36 Contestable funds are also used in a number of countries,²⁶⁵ for example the [Irish Sound and Vision fund](#) which supports accessible programming reflecting Irish culture, history, language and diversity. The scheme is operated by the Broadcasting Authority of Ireland (BAI) which is funded by up to 7% of annual net receipts from the Irish licence fee. By May 2021, €7.2m of funding has been allocated to 104 radio and TV projects.²⁶⁶
- 9.37 Funds could be used to achieve specific objectives such as creating content for hard to reach audiences, potentially using strategic partnerships for example with those that might have existing relationships with these audiences. EY reported that Sport England use a contestable fund to achieve five Government objectives focused on grassroots sports and

²⁶⁰ The EY report is at [Annex 3](#).

²⁶¹ International case studies are set out in [Annex 4](#).

²⁶² The YACF fund backs the development and production of programmes for free-to-access, regulated television and online platforms that have public service broadcasting values in live-action and animation. The BFI is looking for content that entertains, informs and reflects the experiences of children and young people growing up in the UK today.

²⁶³ Launched in 2005, the [Irish Language Broadcast Fund](#) (ILBF) aims to fund Irish language content and foster the Irish speaking independent production sector in Northern Ireland.

²⁶⁴ Established in 2010, the [Ulster-Scots Broadcast Fund](#) (USBF) provides finance for the production of film, television and other moving image products on the Ulster-Scots heritage, culture and language in Northern Ireland.

²⁶⁵ These are discussed in [Annex 4](#).

²⁶⁶ BAI, 31 May 2021. [BAI announces funding of €7.2m under Sound and Vision Scheme](#).

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encouraging greater participation in physical activity.²⁶⁷ Under-represented groups are targeted through partnerships with community organisations and the five objectives are closely linked to the way funds are allocated by Sports England.

- 9.38 Stakeholders said partnerships with cultural organisations, who already have established expertise and resources, could help broadcasters expand their public service offering and help audiences access content. Targeted outcomes, such as making content in indigenous languages, were also suggested by stakeholders as a way to ensure that contestable funding was used to fill any gaps in public service provision.²⁶⁸ For example, contestable funds could also be used to create a local media fund to encourage further collaboration in the nations and regions.

“Useful mechanics could be created to enable targeted investment in UK indigenous language PSM such as an indigenous languages production tax relief, and contestable funds, such as that offered by the Broadcasting Authority of Ireland.”²⁶⁹
MG Alba

Tax incentives

- 9.39 Tax breaks are used by Government to reduce the amount of tax payable or to change the tax system to benefit a group of people or organisations. In the UK, there are a number of schemes; for example, for high-end drama content there is a scheme which gives organisations a cash rebate of up to 25% of UK qualifying expenditure, if it passes a cultural test. There are also R&D tax incentives available to UK companies seeking to achieve an advance in science or technology through the resolution of scientific or technological uncertainty.²⁷⁰ These can be used by PSM providers, in areas such as special effects or improving streaming services to deliver content on multiple devices.
- 9.40 Some stakeholders supported tax relief, including lowering the threshold for productions made in indigenous languages.²⁷¹ It was suggested that increased funding could help new players enter the market and increase diversity of voices,²⁷² and that tax relief could be used to further incentivise regional production.²⁷³

²⁶⁷ These objectives are physical wellbeing; mental wellbeing; individual development; social and community development and economic development and are discussed on page 16 of the EY report at [Annex 3](#).

²⁶⁸ [TAC response to consultation](#), p.11; [Barcroft, S response to consultation](#), p.1; [Barnett, Prof S response to consultation](#), p.6-7; [Directors UK response to consultation](#), p.11; [Ofcom's Advisory Committee for Northern Ireland response to consultation](#), p.11; [Together TV response to consultation](#), p.7

²⁶⁹ [MG Alba response to consultation](#), p.3.

²⁷⁰ See: HMRC, 2007. [Claiming Research and Development tax reliefs](#).

²⁷¹ [TAC response to consultation](#), p.10.

²⁷² [Children's Media Foundation response to consultation](#), p.6; [Media Reform Coalition response to consultation](#), p.6-7.

²⁷³ [Create Central response to consultation](#), p.4. Creative Industries Federation, p.4

“A new tax relief for out-of-London TV production might stimulate higher regional investment. This could concentrate the benefits of any increase in top-line UK external production spend upon regional TV hubs, sharing the economic benefits of the sector around the UK and potentially increase plurality of audience provision.”²⁷⁴

Sky

- 9.41 We think it is critical that Government examines the case for additional PSM provision now and any delay risks further decline in audience engagement. In addition to recommendations for Government, we also consider there are steps that can be taken by both Ofcom and industry which we set out in **Section 10**.

Recommendations for Government

- Legislation should allow for complementary PSM provision by introducing flexibility, to enable additional providers to deliver new PSM content, alongside existing PSM providers.
- Government should examine the case for fiscal incentives which could broaden PSM provision.
- PSM providers should continue to work together to develop more strategic partnerships amongst themselves and with the wider industry.

²⁷⁴ [Sky response to consultation](#), p.26.

10. Next steps

In this section we:

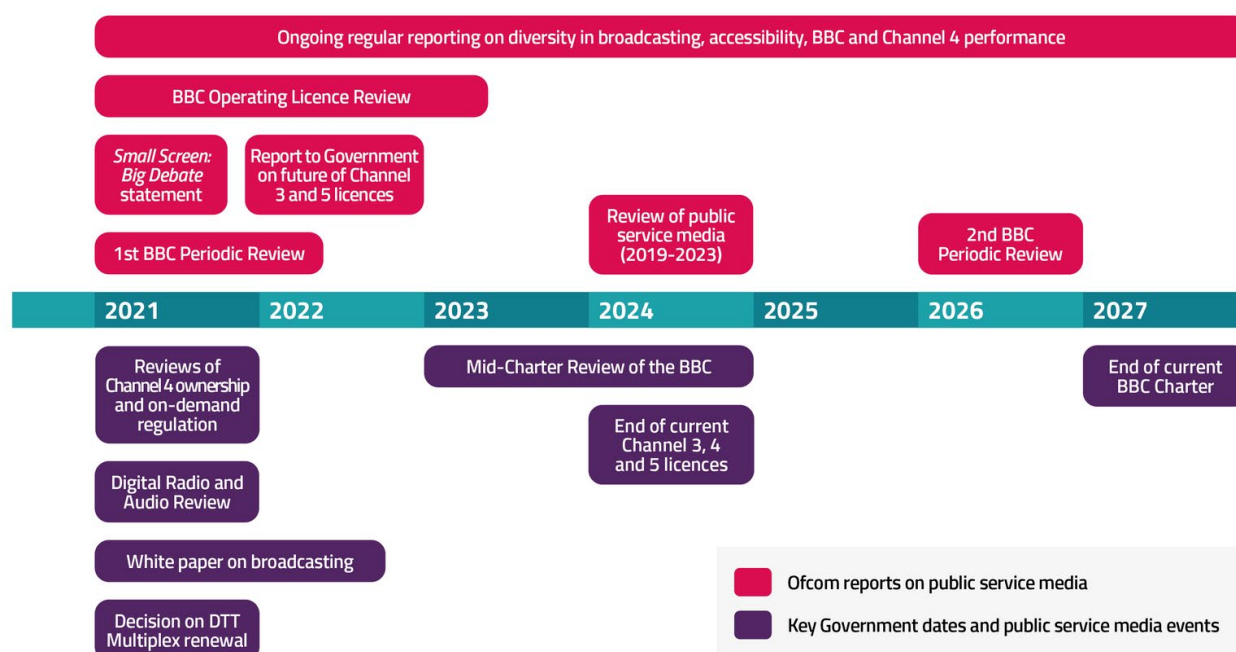
- Set out how we will support the Government to develop new legislation
- Explain our wider programme of work to ensure the continued success of PSM at the heart of the UK's vibrant creative economy.

- 10.1 Following the publication of this statement we will support Government on how our recommendations could be included in its white paper and any subsequent media legislation. DCMS has also [announced](#) it will consult this summer on plans around regulation of on-demand services and published [a consultation](#) on the ownership and remit of Channel 4 Corporation.
- 10.2 Our work with DCMS will continue into the autumn. In some areas, we expect further policy development will be required to work out the detail needed for regulation, to ensure the new framework is effective and enforceable. As any new legislation and subsequent regulation is developed, we will engage closely with Government, Parliament and stakeholders.

Our ongoing work programme to support UK Public Service Media

- 10.3 We already have several areas of work in progress. Below we set out some of the key regulatory and Government milestones coming up over the next few years.

Figure 4. Regulatory and Government milestones 2021 – 2027



BBC regulation

- 10.4 In preparation for the Government's mid-term BBC Charter review, we will assess the effectiveness of existing regulation.²⁷⁵ As part of this we are also considering how the BBC Operating Licence should be updated and expect to publish a consultation later this month, setting out our proposed approach and high level plans. We plan to consult fully on a new Licence in early 2022. Since the BBC regulatory framework already covers the BBC's broadcast TV, radio and online services, we can begin work now on updating the BBC Operating Licence to ensure it is consistent with our proposed approach on PSM.

Channel 3, 4 and 5 renewal

- 10.5 The current licences for Channel 3, Channel 4 and Channel 5 expire at the end of 2024. We will report to the Secretary of State by June 2022 on the ability of the Channel 3 and Channel 5 licence holders to contribute to public service broadcasting purposes over a further 10 year period.²⁷⁶ We will take account of the Government's consultation on the ownership and remit of Channel 4 and work with them to implement any changes they decide to make. We will also work with Government and licensees over the coming months on how our recommendations and Government plans for legislative reform may impact on the terms of future public service broadcasting licences.

The future of DTT

- 10.6 Ofcom is continuing to engage with Government and stakeholders on the future of DTT, preparing our position for international discussions at the World Radiocommunications Conference in 2023, alongside our future spectrum strategy. In addition, as two of the national multiplex licences are due to expire at the end of 2022, including one that carries public service channels, we have been providing technical advice to Government on its plans for the future of all multiplexes ahead of new legislation expected later this year.

The future of radio and audio

- 10.7 We are aware that many of the challenges we have highlighted for PSM TV content in this statement also apply to radio and audio. Ofcom has provided technical input to the [review of digital radio and audio](#) that DCMS is currently undertaking with industry which examines the issues facing radio in the next decade. DCMS are expected to make recommendations later this year and we will take these into account as part of our wider programme of work.

Cross broadcasting sector regulation

- 10.8 PSM is not the only area of Ofcom's regulation that may need updating to reflect the rapid changes in technology and viewer behaviour. Broadcasting regulation must ensure the

²⁷⁵ Including the BBC First model.

²⁷⁶ S.229 of the Act.

continuing success of the UK's vibrant media sector, whether that be in broadcaster performance, content standards or competition.

- 10.9 **Media ownership rules.** We are required to review the rules for media ownership for television, radio and newspapers every three years, and report to the Secretary of State with our findings. The rules make sure people can access a wide range of viewpoints and are an important part of how our democracy functions. We are [currently consulting](#) on our proposed changes to the existing rules.
- 10.10 **Diversity in broadcasting.** Increased diversity in television and radio is an important priority for Ofcom. We expect broadcasters to address critical areas of under representation, particularly in senior positions and want broadcasters to gain a better understanding of the socio-economic and geographic diversity of their workforces. We will support these efforts through continued monitoring and widespread engagement with the sector. As suggested in **Section 4** of this statement we also consider that equivalent equal opportunity obligations could be introduced for the commissioning and production arms of the main SVoD services operating in the UK.
- 10.11 **Accessibility of content to disabled people.** We will also continue to monitor the accessibility of broadcast and on-demand programme services (ODPS) to people with sight and/or hearing impairment. We will enforce requirements for broadcast access services and recently published our recommendations to Government to inform new accessibility requirements for ODPS.
- 10.12 **Protecting audiences from harm on TV and radio** also remains a central part of our work. Ofcom is the post-transmission regulator for content standards on TV and radio broadcast channels. We also regulate ODPS, however the ODPS rules are less comprehensive than those in the Broadcasting Code for radio and TV broadcasters, with the exception of BBC iPlayer which must comply with the Code. Given the increasing number of viewers watching streaming services, the UK Government is planning to consult on whether services such as Disney+ and Amazon Prime should be regulated in the UK to the same level as broadcast TV and whether large services currently outside Ofcom's jurisdiction, such as Netflix and Apple TV+, should be brought into scope. Any change in the way these rules are applied will require detailed assessment as some broadcast rules, such as those relating to time of broadcast, do not translate easily to on-demand services.
- 10.13 **Advertising and commercial partnerships.** One particular area of the Broadcasting Code that is important for the sustainability of commercial PSM providers is the regulation of content that is subject to commercial arrangements, such as sponsorship and product placement, as well as rules on the scheduling of advertising on broadcast channels.²⁷⁷ This has been raised as an area that should be reviewed to ensure audiences continue to enjoy the benefits of PSM in an online world. Some respondents to our consultation asked us to

²⁷⁷ Product placement and sponsorship are both regulated under Section Nine of the Broadcasting Code (Commercial references on TV). This aim to ensure that broadcasters maintain editorial independence over programming and that there is distinction between editorial content and advertising. They support the rules in COSTA that limit the amount of advertising that broadcasters can transmit.

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consider the rules and guidance around such arrangements,²⁷⁸ and some²⁷⁹ said advertising minutage rules should be reviewed.²⁸⁰ We will engage with stakeholders on the suggestions made and consider how we can ensure an appropriate balance continues to be struck between audience interests and the financial sustainability of broadcasters, including the public service broadcasters.

- 10.14 In **Section 3** we also mentioned the challenges raised by stakeholders around new restrictions on advertising around high fat, salt and sugar foods. When tighter restrictions on TV advertising are introduced, Ofcom and our co-regulators (BCAP and the ASA) will be required to administer these. Any restrictions are likely to have a significant impact on the advertising revenue of the commercial PSM providers.
- 10.15 Some were also keen for Ofcom to work with other regulatory bodies to consider updating advertising regulation for online to ensure public service media providers are not disadvantaged by disproportionate regulation of broadcast platforms compared to online.²⁸¹ We are working with Government on their plans for a new digital pro-competition regime, and collaborating with other regulators on relevant issues, including through the Digital Regulation Cooperation Forum (DRCF) on assessing aspects of digital advertising technologies to respond to potential competition, consumer and privacy concerns.²⁸²

Wider Ofcom regulation

- 10.16 Protecting people from harmful content online is a priority for Ofcom. Our research shows that a third of people believe the risks of being online have started to outweigh the benefits. We are currently working to fulfil our new duty to make sure that UK-established video-sharing platforms (VSPs) take appropriate measures to protect children from content that may be harmful to them, and to protect the general public from criminal content and material likely to incite violence or hatred.
- 10.17 In May the Government published the Online Safety Bill, which would give Ofcom new responsibilities to help keep people safe when they are online. We have stepped up our preparations for this significant new role, building on our responsibilities for VSPs, as well as drawing on our media literacy programme (Making Sense of Media), and our long experience of protecting viewers and listeners from harm while preserving freedom of expression.

²⁷⁸ [Channel 4 response to consultation](#), p.33; [COBA response to consultation](#), p.7; [ITV response to consultation](#), p.65.

²⁷⁹ [ITV response to consultation](#), p.65; [STV response to consultation](#), p.18-19; [Barwise, Prof P response to consultation](#), p.2.

²⁸⁰ The Code on the Scheduling of Television Advertising (“COSTA”) sets rules that determine how much advertising a broadcaster can transmit and where advertising is scheduled are set out. See: Ofcom, December 2020. [Statement: Ofcom broadcasting codes: proposed amendments to the Broadcasting Code and the Code on the Scheduling of Television Advertising](#).

²⁸¹ [Ofcom’s Advisory Committee for Scotland response to consultation](#), p.9; [ITV response to consultation](#), p.65.

²⁸² We provide a short summary of our work with the DRCF and new DMU established in the CMA in Section 6 of this statement (p.41).

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- 10.18 We also continue to identify and consider innovative, emerging technologies that could shape the communications industry in the future.²⁸³ We are carrying out a review of the UK's net neutrality framework to ensure it continues to best serve citizen and consumer interests. This will look at supporting innovation to deliver improved outcomes for businesses and consumers, taking account of how both networks and services have developed in recent years. We will shortly be publishing a call for inputs outlining the scope and plans for our review.
- 10.19 As the media sector keeps evolving, so too will our regulation. Our rules will need to encourage growth and innovation, allowing broadcasters to flourish, so that they can best meet the needs of UK audiences. We will work with Government and industry, to ensure the continued success of Public Service Media, at the heart of the UK's dynamic and successful creative economy.

²⁸³ Ofcom, 2021. [Technology Futures – spotlight on the technologies shaping communications for the future.](#)

Annexes to this statement

Further detail about our statement and recommendations is available in five annexes to this document.

Annex 1: [Ensuring PSM content remains widely available and prominent](#)

Annex 2: [Producing public service media content](#)

Annex 3: [How to incentivise new provision of UK public service media](#)

Annex 4: [Encouraging public interest content: international examples](#)

Annex 5: [Public service broadcasting regulatory framework](#)