

Submission to DCMS Committee: Pre-Legislative Scrutiny of Media Bill

From UK Coalition for Cultural Diversity <https://ukccd.org/>

The UK Coalition for Cultural Diversity is a not-for-profit, civil society organisation supporting the implementation of UNESCO's 2005 Convention on Diversity of Cultural Expressions. We are the national representative of The International Federation which represents the interests of over 700 cultural and creator organisations. We monitor national cultural policy and advise the UK National Commission, government, civil society and creator organisations.

Public Service Broadcasting

- **Should the Media Bill provide a clear definition of what prominence in online services looks like?**

UKCCD recommends that OFCOM should insist on prominence obligations with the on-line services which would require all on-line players to give prominence to PSB content and its providers. This would help safeguard the UK's successful audiovisual ecology, and would recognise how each component part affects the other parts, thereby promoting the strength of our existing public service broadcasting environment into the on-line future.

OFCOM should also be given the power to impose additional prominence obligations in order to maximise the possibility for users/audiences to have access to and be introduced to the widest diversity of cultural content.

In the interests of access to cultural diversity online, OFCOM should be empowered to consider various measures to improve the "discoverability" of a wide range of programming

- Promoting public service content in on-line catalogue and/or exhibition requirements
- Obligation to offer media content for specialist UK audiences such as children

Are the proposals in the draft Bill adequate for securing the future of Channel 4 and supporting independent content producers?

The Bill does not appear to address terms of trade between independents and the PSB providers nor in particular, to address issues concerning IP rights

Independent film companies should retain or share IP rights with PSB providers to ensure the sustainability and presence of smaller local production companies in the UK marketplace and in order to guarantee the diversity and local focus of PSB programmes.

Independent companies should also fulfil qualifying requirements regarding their UK status.

Video-on-Demand

- **Are the requirements for the Tier 1 standards code proportionate?**
- **What should be the specific criteria for designating an on-demand programme service as Tier 1?**

On demand services should comply with discoverability/prominence requirements regarding PSB. Transparency requirements: companies should be required to be transparent with OFCOM regarding algorithms they have set up to govern choices, and offer data on audience uptake of programming so that Ofcom can monitor and audit in relation to the objectives of the Media Bill and compliance with matters of diversity and inclusivity required by the PSB remit.

5) Is Ofcom able to deliver its new and updated obligations set out in the draft bill?

UKCCD considers points raised above viz transparency of data & algorithms are also relevant to this question. In addition:

1. The Media Bill requires a better definition of the PSB remit than in the current draft. As stated currently, OFCOM can only have a reactive rather than a proactive role in safeguarding public interest in our broadcasting environment. As currently drafted Ofcom will not be measuring anything other than original productions, those produced outside the M25 and independent productions.

2. With regard to broad aims of public service broadcasting provision, UKCCD suggests Clause 5 be amended to include the following:

- reflecting local communities and audiences
- providing national, regional, and local news
- reflecting UK perspectives on international news
- reflecting our culturally diverse audiences and languages
- showcasing British content to international audiences
- supporting work which takes creative risks

3. Clause 5 consistently refers to ‘audiovisual content’ with no specification of genres essential to support our creative industry and talent growth, and which are vulnerable to commercial failure; genres such as long-form and investigative documentary; arts and religious programming ; innovative and experimental drama and independent film.

4. In order to facilitate OFCOM’s monitoring and reporting and in view of the change to broadcasters’ obligations from ‘requirements’ to ‘objectives in 2 (clause 2) UKCCD recommends that the Act be amended to ensure that public service broadcasters are obliged to provide programme data to include the following issues: sex; gender; race; equality; disability; regional output and original drama. If public service providers are obliged in this way it will strengthen and inform the intention in 5b of ‘what appears to OFCOM to be reasonable’.

5. In general, and in addition to points raised regarding clause 5 above, does the Bill grant Ofcom sufficient powers to defend PSB aims in the face of unwilling rather than willing providers and in the face of the culture clash of commercial companies with different programming criteria and company objectives? Research demonstrates that the digital economy creates new challenges in terms of competition policy due to the non-horizontal and less direct anticompetitive abuses of market power that the digital sphere makes possible, such as the potential to entrench market power rapidly and to leverage the latter across related markets. Research also reveals that the UK’s public service broadcasters play an important role in supporting experimentation, innovation, and cultural diversity across the value chains of the media industry, and indirectly across the broader UK cultural and creative ecosystem.

Given this evidence, and considering the absence of a provision in the draft bill to examine the potential impact of providing recognition of the fulfilment of public service remit to on-demand programme services (including non-UK) on the competitiveness of the UK’s public service broadcasters and, indirectly, on the wider UK cultural and creative ecosystem, the Bill does not grant Ofcom sufficient powers to defend PSB aims.

To address this limitation, with regard to OFCOM reports: wider review and reporting obligations, UKCCD suggests subsection (3) of section 264A be amended to:

transform b) into c) and replace “a report on the matters found on the review” with “a report on the matters found on the reviews”; and

include the following: b) “an obligation to carry out a review of the (actual and/or expected) impact of the recognition of the fulfilment of public service remit by on-demand programme services on the UK media’s value chains and on the broader UK cultural and creative ecosystem, and a comparison of policies in relevant international markets”.

Is the draft bill flexible enough to address future developments in audience habits and new technology?

Given evidence that 7-8 million people are not going to transfer to digital and given statistics showing that around 80% still access content through their TV sets, the schedule set for transferring to digital should be gradual and progress only on the basis of evidence demonstrating audience habits. Universality of access must remain a guiding principle.

Are there any issues missing from the draft Bill within the scope of public service broadcasting, video-on-demand or radio?

There is inadequate recognition that public service broadcasting has been a key driver in sustaining our creative economy, as well as in providing the resources for research and development of new programming and talent . These functions are essential to the future prosperity of the UK and jobs market. All companies benefitting from public funds and in particular the BBC, should be prepared to innovate and be supported to undertake the risk of the percentage of failures necessary in the discovery of new forms and talents.

Do you have any recommendations for additional or amended drafting to the draft Bill?

1 An additional amendment should address the central and critical role of the BBC in sustaining PSB standards

- There must be recognition that to safeguard the aims of public service broadcasting the BBC’s role is distinctive and not equivalent to any other PSB player, whether already established or forthcoming. The delivery of PSB has been and will continue to be oriented by a strong BBC acting as an anchor in an increasingly unlevel, competitive and short-term media environment where supranational companies with significant funds and aims beyond our national control and interest could threaten the UK’s traditional PSB broadcasters over time.
- The BBC should be identified as a key driver for the range of new creative industries not least in contributing/building partnerships to boost cultural hubs in UK cities
- Governance of the BBC:
The BBC is not a state broadcaster. It is essential it maintains its independence.

Given the failures highlighted in the appointment of its latest Chair, the Prime Minister should be uncoupled from this process, and proposals should go through the relevant cross-party committee with the BBC Board as a second check.

The Board make-up should reflect a political balance and include representatives of the 4 nations. The number of non-executives appointed by the BBC to reflect civil society should be increased to further ensure its independence

- Role of the BBC worldwide: The Media Bill should make provision for a fund with the aim of maintaining the service for 1 billion people worldwide as a target.

2 International Trade

The White Paper should support a comprehensive cultural exemption in any trade agreement with another country or group of countries in order to safeguard British cultural sovereignty and the power to introduce measures to develop the British cultural industries. Such an exemption would ensure that the British Government is free to adopt measures vis-a-vis internet platforms on behalf of indigenous creative industries in a way which would be of benefit to the United Kingdom and all its citizens.

In this respect it is also important to have the governmental freedom to introduce the proposed provisions of the Online Harms Bill or any changes as outlined in the government's new White Paper.

Please reference - UKCCD Briefing, May 2021. Free Trade Agreement UK – Canada: Briefing for Ministers

<https://ukccd.org/ukccd-briefing-for-culture-in-free-trade-agreements/>

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