

RESPONSE OF VIACOM INTERNATIONAL MEDIA NETWORKS (VIMN) TO OFCOM'S CONSULTATION ON ITS THIRD REVIEW OF PUBLIC SERVICE BROADCASTING

INTRODUCTION

Viacom International Media Networks (VIMN) welcomes this opportunity to respond to Ofcom's consultation on its third Public Service Broadcasting Review. This response represents the first opportunity for VIMN to set out its views on the future of public service broadcasting since acquiring Channel 5 last year.

For many years VIMN has been the most successful international supplier of pay TV channels to the UK market, in particular MTV, Nickelodeon and Comedy Central. We have now successfully integrated Channel 5 alongside our pay-TV operations, delivering joint synergies through co-productions, programme sharing, and the potential for joint acquisitions in the future.

The purchase of Channel 5 has not only extended VIMN's footprint into free-to-air television, it represents a step-change in our ambitions in the UK: to invest in more programming, to profit from the synergies between our pay and free channels, and to develop the UK as a creative hub for generating great content than can be shown around the world.

VIMN is ambitious and excited about the future. We recognise that we live in a fast changing market, which is being impacted by developing technologies, ambitious new entrants and changing consumer behaviour. We believe we can rise to the challenges these pose and embrace the huge opportunities they offer. But for VIMN and other businesses to do this, we require a regulatory system that reflects the future and enables us to thrive. This is a key theme which we advance in more detail in this paper.

THE INDUSTRY CONTEXT

VIMN recognises that public service broadcasters will continue to underpin free-to-air broadcasting in the UK; they are currently available in nearly all homes and account for 72.5% of viewing.

The UK's unique system of public service broadcasting is based on four different broadcasters, with different ownership and funding models, making complementary contributions while competing commercially against each other. Channel 5 continues to make a significant contribution to this system through its remit to provide a range of high quality and diverse programming, with specific obligations to provide original content, news and (on a voluntary basis) children's programmes.

Pay-TV channels also continue to provide choice for viewers who want more than the free-to-air channels offer. While the PSBs deliver the majority of UK-produced content, the pay channels have increased significantly their investment in UK production. The two systems – pay and free – co-exist side by side and, as the new VIMN model demonstrates, are capable of operating together under a single roof with mutual benefits for owners and viewers.

Traditional linear distribution will continue to be an important means by which our viewers receive our content; but for most content companies like VIMN it is now just one part of a multi-platform distribution strategy which will lead over time to fundamental changes in the way content owners interact with their viewers. This applies as much to Channel 5 as it does to other broadcasters.

VIMN is committed to making its content as widely available as possible. For example, most distribution deals now involve 'TV Everywhere' rights for streaming and on-demand, such as Sky Go. Increased social and digital media engagement is also at the heart of VIMN's content and marketing strategies: for example, the 2014 *MTV European Music Awards*, shown live on both MTV and Channel 5, achieved record levels of social media engagement with 389 million mentions across platforms globally, a 572% increase on the 2013 show.

In this rapidly evolving market context, the future of public service broadcasting can no longer be seen purely in terms of the development of the linear television market. Traditional broadcasters, both free-to-air and pay, need to adapt to the challenges posed by Over The Top businesses like Netflix, iTunes, Amazon and other on-line providers which do not have the same regulatory constraints as television businesses.

VIMN is confident we have the vision and expertise to achieve this by investing in compelling content, launching new on-line businesses of our own and making sure our existing brands progress and develop as our viewers' preferences and lifestyles change. But the regulatory system also needs to adapt to ensure the best possible outcomes.

THE REGULATORY CONTEXT

VIMN agrees that on the face of it the PSB system is currently in good health, reflected in the fact that only a year ago Ofcom renewed the Channel 3, Channel 4 and Channel 5 licences on the basis that their PSB obligations were commercially sustainable for a full ten year term.

However, we are concerned that while Ofcom clearly identifies some significant potential risks to the PSB system in the future - in particular the disaggregation of content and the impact of changing viewing habits - its conclusions play these down and tend towards the assumption that all will remain well in the years ahead. Ofcom says "Our analysis suggests that despite rapid change in the communications industry the PSB system remains strong, broadly delivering the purposes and objectives of public service broadcasting..."¹

This approach provides a notable contrast to the findings of previous PSB Reviews. For example, ten years ago Ofcom said:

"...this established model is already breaking down...Beyond switchover, we will no longer be able to ensure the delivery by commercial PSBs of the wide range of obligations – such as regional programming – we have secured in the past...We concluded that a new model would need to be put in place to address the challenges identified and to secure PSB for the future"²

Four years later, Ofcom's second PSB Review said:

"...the UK's advertiser funded public service broadcasters...face greater competition than ever before and growth in television advertising has stalled as investment moves to the internet. These trends represent irreversible structural changes to the broadcasting market and are significantly exacerbated by current economic conditions"³

It seems to VIMN that Ofcom has substituted a bias toward intervention with a bias against it, at precisely the time when the evidence of change is becoming stronger.

Ofcom's current Review clearly highlights the unprecedented changes in media consumption taking place at the present time, and the impact these may have on PSB channels – but it suggests the PSB system is on an "evolutionary path" that will not be impacted substantially by these changes.

Ofcom also finds that declines in the PSBs' spend and output over recent years has not affected audience satisfaction⁴. The (largely unspoken) assumption is that further falls in investment may well not impact materially on viewers' appreciation of PSB – so the PSB system will prosper even though levels of investment continue to decline. The crucial danger of this approach is that, while all the PSBs have found ways to

¹ condoc, paragraph 7.1

² *Ofcom review of public service television broadcasting; Phase 3 – Competition for quality*, 8 February 2005, page 6

³ *Ofcom's Second Public Service Broadcasting Review: Putting Viewers First*, 21 January 2009, paragraphs 1.15/16

⁴ condoc, section 3 passim

limit the impact of declining investment by cutting at the edges of their schedules, further reductions are far more likely to affect the heart of PSB delivery.

Ofcom appears to believe that, because the PSB system has proven more robust in recent years than it predicted, the system will carry on being robust and delivering PSB outcomes in the years ahead. Ofcom should place greater emphasis on the possibility that changes in technology, consumer behaviour and the PSBs' economic performances may put at risk the continuing health of the PSB system. If that were to happen, Ofcom would need to act to maintain and strengthen PSB.

At present, it may not be entirely clear from where the threats to the vitality of PSB will come. But that is not a reason for believing they are unlikely to materialise. In fact, it would be prudent for Ofcom to prepare the ground now for new regulatory interventions in case they are needed in the near future – rather than to downplay the evidence that such interventions may be necessary; and then find they are not to hand if and when they are needed.

To enable VIMN and the other PSBs to address the market changes that are clearly underway, and evolve their businesses as multi-platform digital offerings, Ofcom should ensure the regulatory framework evolves in parallel. It should not only monitor those changes that can already be detected but anticipate those yet to arrive.

The changes in regulation needed to provide the best possible environment for the PSBs to thrive include:

- to ensure PSB services can be located and accessed easily by viewers in a world where on-demand viewing across multiple platforms is becoming more common for many viewers
- to reduce the disparity between different regulatory environments for different forms of content delivery, which currently place linear channels with their greater degree of regulation at a disadvantage to other, on-line services;
- to ensure fair payment from all platforms and distributors for the PSB services they offer their customers.

We develop our arguments on these proposals in our responses to Ofcom's consultation questions, which we now address.

ANSWERS TO CONSULTATION QUESTIONS

Question 1: Do you agree with our assessment of the context in which the PSB system operates, and how the trends identified might affect the PSB system? In particular, do you agree with our analysis of the independent production sector?

We agree in broad terms with Ofcom's assessment of recent and current trends. It is clear to VIMN that, while the PSBs remain at the heart of UK television viewing, viewers have an expanding variety of on-demand options for viewing high quality audio-visual content. This presents business challenges to the owners of the PSB networks, including VIMN, as well as to Ofcom in its role of maintaining and strengthening PSB.

We note in particular the evidence that the PSBs' investment in original UK content is declining (by more than the investment from other broadcasters is growing, even though the rate of that investment is considerable); that younger audiences are watching less television and appear to value it less than in the past; and that in an increasingly connected world traditional television faces increased competition for audiences from on-demand and other on-line media.

Our observations on the independent production sector can be found in our response to Question 14.

Question 2: Have we identified the key differences in Northern Ireland, Scotland and Wales?

This question is not relevant to Channel 5 and the wider VIMN group as a UK-wide broadcaster.

Question 3: Do you agree with our assessment that the PSB system remains strong overall?

VIMN believes the PSB system remains strong for now; the key question is for how long this will remain true.

There is clear evidence the PSB system is valued and has met the challenges of recent years, specifically the cyclical effects on advertising revenues of the recession and the structural impact of the greatly extended viewer choice to which digital switchover led. The commercial PSBs all responded to the latter by investing in portfolio channels (including "plus one" services) to broaden the range of their programme offerings; and have concentrated their investments in those areas of their schedules designed to reach the largest audiences and reap the greatest commercial returns.

Ofcom's audience research demonstrates clear evidence of continuing support for the PSB system and shows that in general audiences continue to value the purposes

and characteristics of PSB. It shows broadcasters are fulfilling their remits by investing in appropriate programmes, and that viewers recognise this.

But the research also demonstrates declining support for traditional means of accessing PSB, especially among younger viewers. It is not clear to what extent the current viewing habits and engagement with technology of younger audiences will continue throughout their lives and spread to older generations; but it is clear that viewing habits are changing rapidly and will continue to do so.

What must be particularly concerning for the future – for the PSBs and for Ofcom - is the extent to which younger audiences are watching the PSB channels less and seeing them as less central to their lives. As Ipsos MORI says, with a degree of understatement, “The PSBs as a group are losing some of their distinctiveness, particularly among younger audiences, as the market place becomes more crowded”⁵.

This divergent and growing trend towards new media habits presents the greatest challenge to the PSB system - which will need to continue evolving and developing if it is to remain relevant to audiences. It will only be able to do this if the regulatory framework in which PSB operates is recalibrated accordingly.

Question 4: Given the resources available, to what extent is the system meeting the needs of as wide a range of audiences as practicable?

The research commissioned by Ofcom suggests that audiences' expectations of the PSB system are being met at present. It also underlines the extent to which the contribution of the PSBs needs to be seen in the context of the broader media market.

There is a significant risk that PSB provision may become more marginalised and less relevant to its full range of potential audiences in future, as viewing is disaggregated and on-demand services multiply. This is why Ofcom should take steps to minimise this risk through developing measures designed to ensure PSB content is appropriately regulated, remains easy to find, and is properly funded.

Question 5: Given the resources available, does the PSB system deliver the right balance of spend and output on programming specifically for audiences in Wales, Scotland and Northern Ireland and programmes reflecting those nations to a UK-wide audience?

This question is not relevant to Channel 5 and the wider VIMN group as a UK-wide broadcaster.

⁵ Ipsos MORI, 2014 PSB Review, page 7

Question 6: Is declining investment affecting the quality of PSB and is it a cause for concern?

As we have observed already, Ofcom has identified a fall in investment on the main PSB services but, because this has not led to any apparent fall in audiences' appreciation of PSB, it questions whether investment inputs are linked to the quality of PSB outputs.

It is important to understand how the PSBs collectively have responded to reductions in available programming spend over recent years. By and large the broadcasters have managed resources without significantly reducing their PSB offers, by making cuts at the fringes of their schedules.

For example, Channel 5 has decided to concentrate the great majority of new programme spending in peak time, with the result that the proportion of repeats outside peak time has increased. Greater investment in peak time origination has also been driven by changes in the relative commercial attractiveness of UK produced programmes, with a corresponding reduction in acquisitions.

Other channels have taken similar steps to safeguard their core offerings, which is probably behind Ofcom's finding that the volume of first-run original programmes in peak time has actually increased⁶ while overall hours and spend have declined.

The risk is that the effectiveness of such strategies is limited, and if further pressures are brought to bear, it will no longer be possible to protect the salience of the PSB system.

Question 7: Do you agree with Ofcom's provisional findings in the Review of C4C's delivery of its media content duties?

We do not have a detailed view on Ofcom's assessment of how Channel 4 has delivered these duties.

Question 8: To what extent do you agree with our assessment of the degree to which the non-PSB services play a role in helping to deliver the public service objectives? In doing so please set out your views on the delivery by the PSB portfolio channels, other non-PSB channels, on-demand and internet services and also radio services separately.

VIMN welcomes Ofcom's recognition of the important role played by the pay TV sector in boosting investment in original UK content, including on its own channels. In recent years Nickelodeon has invested millions of pounds in UK original productions for children such as *Peppa Pig*, a co-production with Channel 5 which launched in 2004, *Digby Dragon* from Blue Zoo, *Lily's Driftwood Bay* from Sixteen South and *Puffin Rock* from Dog Ears.

⁶ condoc, paragraph 3.13

Comedy Central UK has also substantially increased its investment in original content in recent years as it seeks to turn the UK into an export hub for comedy internationally. The business aims to produce four to five brand new British series of 22 episodes or more each year.

An important part of our programme strategy is to supplement programmes from our parent channels in the United States with UK produced shows. We also believe the recent purchase of Channel 5 will lead to important synergies between the Channel 5 portfolio of channels and the VIMN pay channels that will result in further investment in UK produced shows.

The programming commissioned by VIMN and other multichannel providers has increased the quantity and range of original UK productions, and hence provided more choice to viewers. We accept that as these are mostly pay channels they are not available to all viewers.

The PSB portfolio channels have helped preserve the viewing shares of the PSBs as their main channels have come under pressure, largely as a result of digital switchover. These channels, including timeshifted channels (in our case, Channel 5+1 and Channel 5+24), have provided further opportunities for viewers to see content originally scheduled on the main services. And the development of on-demand services, such as Demand 5 and the iPlayer, has extended further the ways in which viewers can watch content first screened on the PSB channels.

Question 9: How likely are we to see steady evolution and have we identified all of the potential alternative scenarios and risks to the system?

As we have already indicated, and as Ofcom's own research has suggested, there is considerable uncertainty ahead due to a number of potential changes in consumer behaviour and other external factors which could trigger major changes in the television landscape.

A significant concern is the changing behaviour of younger viewers, on which the research Ofcom commissioned from Ipsos MORI throws new light and upon which we commented in our response to Question 3. Such radical changes in behaviour could well have a profound effect on television viewing as it works its way through the generations.

The trends identified in the Ipsos MORI research are confirmed by continuing reductions in television viewing among younger audiences. Ofcom quotes changes in viewing between 2010 and 2013; a recent report by Enders Analysis shows that whereas in 2013, viewing among 16-34 year olds was 91% of the level in 2010, in 2014 this had fallen to 84%⁷. There is a risk that viewing among today's younger audiences continues to fall, that this change multiplies as those viewers grow older, and that this has a serious impact on the continuing salience of the PSB system.

⁷ Enders Analysis, *Multichannel TV facing the squeeze*, 15 January 2015, page 8

Undoubtedly, one of the drivers towards new behaviour is the emergence of new on-line enterprises with the capacity to invest substantially in new content to which they can drive audiences. Such businesses do not have the obligations of the public service broadcasters nor the regulatory constraints imposed more broadly on linear television channels.

We share Ofcom's view that TV advertising has remained structurally resilient over the years. Even so, marketing spend is always subject to potential cyclical downturns which can have a major impact on the revenues of free-to-air broadcasters like the commercial PSBs. Any significant decline in the viewing of linear television could also result in a reduction of TV's share of advertising revenue.

We would be concerned if there was a significant real terms reduction in the level of the BBC Licence Fee. Ofcom accurately describes the BBC as the cornerstone of the PSB system⁸; a substantially weaker BBC would impact on the viability of the free-to-air broadcasting ecology.

The various potential changes to the existing television landscape that Ofcom identifies – including a faster than predicted shift to on-demand viewing, the emergence of further Over The Top players in the wake of Netflix's success, and greater fragmentation of audiences – all pose real threats to the vitality of the PSB system. We believe Ofcom needs to take these threats seriously and plan for their possibly coming to pass.

VIMN agrees with Ofcom's statement that it has "not yet seen evidence to suggest that the Channel 3 licensees, Channel 4 Corporation and Channel 5 might become financially unsustainable in the medium term"⁹. But the question Ofcom needs to address is whether their existing public service obligations will remain sustainable and whether a similar level of PSB will continue to be delivered to audiences.

Question 10: How might incentives to invest change over time?

VIMN has already made clear, in this response and publicly, that it is committed to investing in Channel 5 in both the short and longer term. But we also recognise that the overall level of investment in content by any one commercial PSBs is greater as part of a wider PSB ecology than it would be if it were operating alone. Therefore, if the wider PSB system comes under pressure because of the factors identified by Ofcom and discussed in our response to the previous questions, and these are not addressed through appropriate regulatory intervention, then there is a strong possibility that over time investment will reduce.

VIMN also has some serious concerns about the Mediatique research on investment incentives which Ofcom has commissioned. In particular, we do not accept the description of Channel 5's prospects in paragraphs 5.52-5.54. While it is true that in its earlier years, Channel 5 rarely made a profit, in recent times it has been a profitable company and will benefit from the synergies and strength of being part of

⁸ condoc, paragraph 5.2

⁹ condoc, paragraph 5.14

the VIMN group. Channel 5 has clear PSB obligations, primarily around original production, news, current affairs and children's programmes, which it fulfils conscientiously. It will continue to invest in high-quality programmes that meet its viewers' needs.

We also do not recognise some of the descriptions of Channel 5 in the document. For example, the chart produced as Figure 50 shows Channel 5 broadcasting arts, religion and single plays – yet none of these genres has featured in the channel's schedules for many years. We also disagree strongly with the suggestion that our news services, of which we are proud, is “strategically challenged” (although we understand this may be due to the research methodology being limited to programme in peak time, which excludes the main 5pm edition of *5 News*). We are sure Mediatique attempted to address some difficult questions (we helped them with their research), but we think the report makes only a limited contribution to the debate Ofcom needs to conduct.

Question 11: Have we identified all the relevant ways in which the PSB system might be maintained and strengthened?

We do not believe any other mechanisms should be considered at this time.

Question 12: Does universal availability and the easy discoverability of PSB remain important and how might it be secured in future?

At the heart of the concept of public service broadcasting is the belief that it should be widely available, free at the point of use and easily discoverable. This idea underpins the regime of appropriate prominence on electronic programme guides (EPGs), enshrined in the Communications Act 2003, and provides a crucial part of the regulatory framework for the current PSB system.

While viewers may continue to see linear channels as central, they are also seeking content in other ways. And as viewers find increasingly new ways and times to watch the content produced by the public service broadcasters, so the regulatory system needs to evolve so that same principle of easy discoverability can be applied in the future as it has in the past. This need becomes more urgent the quicker the consumer environment changes.

It is obviously not possible to replicate exactly the prominence regime designed for linear TV platforms. But it should be possible to identify those services that primarily carry content shown originally on licensed PSB and BBC channels (such as the iPlayer and Demand 5) and require them to be accorded prominence on major consumer platform and portals. Prime examples would be connected TV platforms such as YouView, Freeview Play and Now TV. We agree with Ofcom that an approach that balances universality and proportionality is appropriate¹⁰.

¹⁰ condoc paragraph 6.11

We do not agree with the suggestion in the Ofcom paper that “universality may not necessarily require regulatory intervention” because the resilience of linear channels will ensure PSB content is widely available and easily discoverable¹¹. Firstly, purely commercial enterprises wishing to launch or develop new services would be incentivised to make payments to platforms in order to gain prominence, to the detriment of public service channels. Secondly, while platforms may see it in their commercial interests to give prominence to services from the most popular PSBs, this may not extend to smaller PSBs such as Channel 5.

Question 13: Should we explore the possibility of giving greater flexibility to PSB institutions in how they deliver public service content, including examining the scope (in some or all cases) for regulating by institution, not by channel?

VIMN does not see merit in this suggestion. The main PSB channels have the greatest reach and impact, so keeping PSB obligations on these channels ensures they are available and visible to the largest possible audience.

Moreover, the public service status of Channel 5 and the Channel 3 licensees is based on an assessment of the value of the benefits and the costs of the obligations on their main channels. It would only make sense for PSB obligations to be placed on additional services if they were awarded corresponding PSB benefits. The alternative suggestion, that PSB obligations could be delivered on secondary services while the main channel continues to enjoy PSB benefits, might be attractive commercially but it is hard to see how it could be justified publicly.

Ofcom notes that the BBC and Channel 4 already have duties that extend beyond their core linear channels. However, we think the same idea of a balance of costs and benefits also underpins public service delivery on their channels. We would be particularly opposed to any arrangement that allowed Channel 4 to deliver its main PSB obligations other than on its main channel. Channel 4 is a direct commercial competitor of Channel 5; it would disadvantage Channel 5 if it still needed to fulfil its PSB obligations on its main channel while a key rival was able to transfer them to a secondary service.

Question 14: Do the current interventions in relation to the independent production sector need to change in light of industry developments?

The independent production sector has been a great success story. Throughout its history, Channel 5 has had a good working relationship with independent producers, who have made the vast majority of its programmes.

But it is not clear that the two interventions – the 25% quota and regulated terms of trade - that helped the growth of the sector are still relevant or necessary today. They should be re-examined in light of current market conditions.

¹¹ condoc paragraph 6.26

The two interventions were each designed to improve the market position of small independent producers faced with a few large broadcaster clients. Today there are a large number of production companies of varying sizes supplying a wide range of broadcasters. Many production companies that benefited from the interventions have grown into successful businesses; a considerable number have been consolidated into larger production houses; and many have been sold to large media groups, often sacrificing their independent status in the process. It is clear that the business plan of many independent production companies is to grow to a size where they will buy or be bought by other such companies and eventually form part of an international media business.

Given this trajectory, the interventions may appear now to be of somewhat greater benefit to the commercial interests of the larger independent production companies than to the public interest. We also question whether all the specific benefits Ofcom attributes to independent production companies¹² are inherent to such companies or could not be as well delivered by dynamic in-house producers.

VIMN believes the time has come to question whether the best way of maintaining and strengthening public service broadcasting is to continue providing regulatory advantages to large scale producers (after all, it is the broadcasting that Ofcom is charged with maintaining and strengthening, not the producing). In spite of the pressures the PSBs are facing, they are still expected to provide up-front all or nearly all of the finance for most productions they fund, but only receive a relatively minor share of the back-end revenues from their secondary exploitation.

Moderation of the present regulatory regime would not lead to a collapse of the UK production sector. It is already too well established, with growing international ambitions. Nor do we advocate the sweeping away of all the existing regulation. Instead, we would like to see regulatory interventions applied only to smaller production companies. If companies wish to grow and become part of larger groups with the scale and capacity for international diversification that brings, then there should come a point when they no longer benefit from the protections designed to safeguard the indigenous UK production industry.

A more targeted regulation might see “terms of trade” protection applying only to companies of a certain size (we do not wish to be prescriptive at this stage of what that size should be; possibly it could cover all companies classified as small and medium sized enterprises). Companies growing beyond that size would lose that protection – in the same way that production companies bought by owners of UK broadcasters now lose their “qualifying independent” status.

At the same time the quota could be reduced, perhaps to ten per cent. The quota was introduced originally to provide a guarantee for independents when the great majority of production was undertaken in-house. With a burgeoning production sector competing for commissions from the PSBs, and a tighter definition of an independent, the guarantee can be safely reduced.

¹² condoc paragraph 6.52

The effect of these reforms would be firstly to recognise that, once they reached a certain size and had developed commensurate ambitions, larger production companies would no longer require the support and protection of legislation designed to protect specifically UK producers. Secondly, they would ensure a continued throughput of new start-up independent producers, as anyone starting such a business would know he or she had access to guaranteed terms and a guaranteed production quota. This might also lead to a greater diversity of production companies, as there would be clearer advantages to remaining at a smaller scale.

We also believe Ofcom should commit to a review of its guidance¹³ on the PSBs' commissioning Codes. It is almost eight years since that guidance was last revised and it would be timely for it to be looked at again.

Question 15: Have we identified the right options when considering potential new sources of funding, are there other sources of funding which should be considered, and which are most preferable?

VIMN believes new sources of funding PSB need to be considered now, in case they need to be introduced in the future. In many cases, Ofcom will need to conduct further detailed work before changes can be introduced. However, we do not think all the options outlined by Ofcom should be considered further. We outline our views on each of Ofcom's potential options.

- Changing TV advertising volume and scheduling rules

We recognise Ofcom has carried out a considerable amount of work on this complex issue in the past, and given those deliberations we do not believe a fresh investigation would lead to any significantly different conclusions.

- Relaxing wider TV advertising rules

VIMN believes it is important for Ofcom to keep these advertising rules under review to ensure commercial PSBs and other broadcasters are not unfairly burdened with regulatory responsibilities which prevent them competing effectively with other less regulated media.

Relaxation of the rules governing sponsorship or product placement may well make advertisers more willing to spend on such opportunities, but at present we see such extra expenditure as more likely to come from the overall budgets they devote to television rather than bringing new money into the sector. So those broadcasters better placed to exploit relaxation of these rules may benefit relative to those less well placed. We would like to see these rules reviewed, as there could be some

¹³ Ofcom, *Guidance for Public Service Broadcasters in drawing up Codes of Practice for commissioning from independent producers*

revenue uplift, but Ofcom should be cautious about the extent to which relaxation would lead to any major increase in funding overall.

- New tax breaks

VIMN has welcomed the tax breaks introduced in recent years, which have been hugely successful in bringing new investment into the film and TV industries. Channel 5 has benefited to a limited extent from the animation tax break, although it has not benefited from the high-end television drama tax break as its drama budgets are not large enough.

Some additional tax breaks could help make affordable some types of programme that might not otherwise be commissioned, such as lower budget dramas or high-end documentary. But they would be unlikely to influence programme strategy in other genres; for example, it is doubtful the existence of a tax break of itself would lead Channel 5 to commission arts programmes when they form no part of our current programme offer.

- Exempting PSBs from any future AIP charges

In common with the other PSBs, Channel 5 has long argued that Administered Incentive Pricing (AIP) should not be applied to the spectrum used for terrestrial broadcasting¹⁴; and that if nonetheless AIP is introduced, it should be set at zero for PSB channels to safeguard the provision of PSB¹⁵. VIMN endorses those views.

- Introduce contestable funding

We are sceptical about the prospects of additional public funding of public service broadcasting, especially at a time of continuing austerity and downward pressure on public spending generally.

The most common view propounded by advocates of contestable funding is for some part of the licence fee to be allocated for funding other parts of the PSB system. We would be opposed to this. The licence fee is widely accepted because there is a clear and transparent link between what people pay and what they get – they pay the licence fee and they get the BBC. For the licence fee to be used to fund some other broadcaster(s) would cloud this accountability and potentially undermine the BBC. We would prefer to see the BBC remain as the well-funded cornerstone of the PSB system, with the commercial PSBs competing with it for audiences but not for revenue.

¹⁴ See for example *Response of Channel 5 Broadcasting Ltd to Ofcom's consultation on spectrum pricing for terrestrial broadcasting*, May 2013; and *Response of Channel 5 Broadcasting Ltd (Five) to Ofcom's consultation on the future pricing of spectrum used for terrestrial broadcasting*, October 2006

¹⁵ See for example *Response of Channel 5 Broadcasting Ltd (Five) to The Digital Opportunity, Phase One of Ofcom's Second Public Service Broadcasting Review*, June 2008; and *Response of Channel 5 Broadcasting Ltd (Five) to Preparing for the Digital Future, Phase Two of Ofcom's Second Public Service Broadcasting Review*, December 2008

- Use new quotas to secure at-risk genres

Ofcom awarded Channel 5 and the other commercial PSBs new licences on the basis of a clear set of obligations, balanced by benefits. We do not see how additional obligations can be placed upon these channels unless some of their existing obligations are taken away or new benefits introduced, to maintain that balance.

- Transfer funds from other parts of industry into the PSB system

As Ofcom notes, VIMN has spoken publicly in favour of payments being made by the major pay platforms to the commercial PSBs. This is also the view of ITV and Channel 4. The pay platforms have been able to build large and successful businesses without paying for the most popular channels on their services. Now that the pressures on the PSB system are becoming more apparent, it is time to consider rebalancing this arrangement.

The pay platforms benefit considerably from the presence of the PSB channels – they would not be anything like as successful without the UK's five most popular channels - but under current provisions, they do not have to pay anything to carry them. While it may have made sense to allow this arrangement when the pay platforms were nascent businesses and the PSBs benefited from unique access to analogue spectrum, in the modern world the PSBs have to compete in a multi-channel environment in which the pay platforms have powerful positions.

The question for Ofcom, as it considers how to maintain and strengthen public service broadcasting, is whether this historically derived arrangement continues to make sense now the pay platforms are mature businesses and the PSB system is under potential challenge.

We recognise that payments from the platforms to the PSBs would need to be considered in the context of several factors, including the value of the PSB channels to the pay platforms, the platforms' ability to pay and the extent to which the payments received were used to maintain and strengthen the PSB offering of each of the channel. A thorough examination of this issue could lead to a redrawing of the balance between platforms and channels and provide a welcome source of funding for the PSB system in the years ahead.

Viacom International Media Networks

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