

Response to Open Letter about a report by Ofcom to the Secretary of State under s.229 of the Communications Act 2003 from the Campaign for Press and Broadcasting Freedom (CPBF)

The CPBF was established in 1979. It is the leading independent membership organisation dealing with questions of freedom, diversity and accountability in the UK media. It is membership-based, drawing its support from individuals, trade unions and community based organisations. Since it was established, it has consistently developed policies designed to encourage a more pluralistic media in the UK and has regularly intervened in public and political debates over the future of broadcasting in the United Kingdom. We have responded to numerous Ofcom consultations.

1. The Campaign is responding to this Open Letter because we are deeply concerned about the future of public service broadcasting in the UK, and in particular the democratic and cultural role played by the commercial broadcasters who are the subject of the letter. This is an important moment because a new licensing round is due, and it seems to us that the central role played by commercial broadcasters in the overall media landscape is under threat.

Although we cannot provide the technical or commercial data requested by the Open Letter, we feel it is important that the views of those who are concerned with the democratic and cultural contribution of commercial broadcasters, especially Channel 3, should be taken into account. For this reason we have made some wider comments on the Ofcom *Report on the Licensing of Channel 3 and Channel 5* (2 September 2011) which we hope will be relevant to Ofcom's report to the Secretary of State.

2. We are aware that the situation of commercial public service broadcasters will be reviewed in the planned new Communications Act, and feel strongly that cultural and democratic factors should be recognised in that Act, and that Ofcom's powers to ensure that such broadcasters remain part of the public service ecology should not be curtailed.

We do not support a rigid distinction between 'public service' television, which is publicly funded and therefore obliged to serve the public interest, and that which is commercially funded and therefore has no such obligation. Such a distinction impoverishes both the publicly funded BBC and the commercially funded channels. If the obligations on commercial broadcasters were removed, the BBC may be forced to narrow its output to worthy 'public service' genres alone, and the commercial channels would feel free to limit their output to programmes which can deliver the biggest profits.

3. We know that Ofcom is aware that the balance between publicly funded and regulated commercial channels has achieved the unique ecology which has characterised UK television. The Ofcom Report (2 September 2011) noted that this created 'a historically strong and successful commercial public service broadcasting model' (5.22).

The unique balance was achieved through plurality of 'different business models and ownership structures' which Ofcom describes as leading to 'a strong mixed broadcasting ecology' and also the 'positive' regulation which led to "plurality across a range of key public service genres" (Report 3.8). The requirement for commercial channels to carry certain types of programming has had reverberations beyond those particular genres and has led to productive competition between the channels (for audiences not for funding). This balance is now in danger.

4. We know that there has been intensive lobbying by the commercial broadcasters, arguing that the regulatory obligations which currently exist should be removed and that this lobbying will increase in the run up to the new Act. Nevertheless we feel that any reduction in the current requirements would seriously damage an already shrinking provision, and can only hasten the reduction in quality and diversity which is already taking place.

Ofcom's Report itself gives several examples of this reduction:

1. investigative journalism is shrinking on Channels 3 and 5 (4.14).
2. the nations and regions are not well served. (4.16)
3. broadcasters are increasingly focused on programming that will sell globally, and international sales can 'influence the nature of programme content produced' (3.16-17: 4.30) and 'place increasing strain' on the range and diversity of programmes commissioned from independent producers (4.30).

5. Although we appreciate the changing circumstances described in the Report: the movement of advertising to the internet, competition from online television provision, and the decreasing value of quantifiable assets (4.4), we argue that a deliberate choice has been made by Channel 3 companies to maximise profit through a global presence, as opposed to creating sustainable businesses with a real commitment to UK programme provision. For a detailed account of the change in the culture of ITV companies over the years following the 1990 Broadcasting Act, we refer you to Ray Fitzwalter's *The Dream that Died: the rise and fall of ITV* (Matador 2008). We are deeply concerned that the increasing commercial focus of the Channel 3 companies is linked to the disappearance of the regionally based ITV companies, and has impoverished the nature of the output, especially in the English regions.

We regret that discussions about 'public service obligations' and the licence renewal process are largely couched in terms of commerce, and suggest that 'sustainability' is different from maximising profit.

6. Channel 5 has historically made a smaller contribution to the public service ecology. However we would argue that the acquisition of the Channel by Northern and Shell should have been subject to a public interest test. We recommend that in future Ofcom should have power to initiate such tests when they judge that they are necessary. Such powers could only be bestowed by the next Communications Act, but they would have a significant bearing on the Channel 5 licence renewal.

7. Given this situation, we emphasise that the current regulatory requirements, as laid out in The Ofcom Report (Annex 2) represent a minimum. In many ways they are not sufficiently stringent, since news and current affairs are the only protected genres. A wide range of genres which do not necessarily bring in high profits but are important to democracy and culture, should be protected. This is recognised in the discussion of original production (Review 4.23). However, there is no reference to children's broadcasting in the Report, even though Ofcom's document on *The Future of Children's Television Programming* (December 2007) had recognised the importance of this type of input and aimed to "maintain and strengthen future provision of a wide range of high quality and original programming for UK children." This means that one significant segment of the population is not adequately served.

We endorse the statement that “licence renewal without additional enforcement mechanisms may not provide an appropriate level of certainty about the ability of the broadcasters to maintain PSB commitments until the mid-2020s’ (5.9)

8. Finally, we would welcome an award process which could “lead to the development of new and innovative forms of public service content” (5.24). We would suggest that new and innovative forms of funding would also be helpful, and would be in the spirit of the ‘different business models and ownership structures’ which have contributed to the strength of UK television.

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