

## Written evidence submitted by the local TV sector (MB06)

### Written evidence to the Public Bill Committee's review of the Media Bill

#### Summary

- The local TV sector is deeply concerned that the local TV sector is currently excluded from the provisions in the Media Bill intended to help secure the future of all other existing licensed public service channels.
- Without guaranteed carriage and prominence, the local TV sector's financial future will be in severe jeopardy, local news will not be easily discoverable, and it will not be practical to develop local TV services.
- Amendments therefore need to be made to the Bill to ensure that local TV services can continue in the digital era and are not disadvantaged relative to local radio services (for which the Bill secures guaranteed carriage on 'smart' speakers and potential financial assistance) and in particular:
  - A right for Ofcom (at its discretion) to secure carriage and prominence for local TV services and their apps on the main internet-connected TV platforms of the future; and
  - Grant-making powers to enable local TV to participate in any potential future local content fund (envisaged in the Bill for local radio) on fair and equal terms.

#### Background

1. The Local TV Network ("**LTVN**") is the trade body for the 34 local digital television programme ("**local TV**") services in the UK, including services in all of the nations and regions.
2. Comux UK Ltd ("**Comux**") is the multiplex and technical transmission operator for the 34 local TV services and is co-owned by the local TV licensees. It was established in 2012 to apply for the licence to operate the digital terrestrial television ("**DTT**") multiplex on behalf of the local TV sector.
3. All 34 local TV services are Ofcom licensed, and their content must comply with all Ofcom regulatory codes. The services are free to air and can be found on Freeview Channel 7 or 8 (dependent on location). Local TV services bring local news to over 16 million homes in the UK (around 60 per cent potential Freeview household coverage). They frequently deliver stories that matter to local people that would not otherwise be covered by mainstream broadcasters.
4. Throughout this submission, local TV licensees and Comux are described as "**the local TV sector**" or the "**sector**".

#### Including local TV in the "Licensed public service channel" designation

5. At present, the Bill excludes local TV services from the new "licensed public service channel" (PSC) designation, despite local TV services being included in the equivalent designation in the Communications Act.

6. This means that as viewing migrates from DTT to new internet-connected TV platforms, local TV services will have no means to replace the lost viewing or attract digital replacement advertising, seriously jeopardising their viability.
7. The Local TV Sector regards it as critical to include local TV in the definition of a “licensed public service channel” so that Ofcom has the power to secure its future in the same way as it is being granted for all other existing public service channels.
8. Without this power, local TV services and their apps will not be entitled to either carriage or prominence on the next generation of connected-TV sets, and the stated purposes of the Bill to secure the future of all public service channels cannot be achieved.

### **Carriage and prominence for all public service channels**

9. Due to their existing public service channel status, local TV services are currently available on DTT channel 7 or 8 (regulated by Ofcom). However, as the current framework makes no provision for local TV services to be delivered using IPTV, no local TV service has managed to secure agreement for apps or streaming services to be carried by any major smart TV platform, including Sky and Virgin Media.
10. The Media Bill seeks to update the licensing framework for public service channels (other than local TV) to ensure that carriage and prominence is protected on the next generation of smart TV sets.
11. The Government’s own impact assessment itself recognises that it is the smallest public service channels who most require regulatory support in their negotiations with powerful TV gatekeepers. Paragraph 80 of this impact assessment states<sup>1</sup>: “...engagement with PSBs has found that TV platforms generally already make the larger and more high-profile PSBs’ services available, and in some cases prominent... However, the smaller PSBs services, in particular those provided by regional PSBs, are not currently universally available nor easily accessible on TV platforms.”

### **Fair and equal treatment for all forms of local content**

12. The Bill currently includes guaranteed carriage for local radio on ‘smart speakers’ and offers the potential of future financial assistance, but does not include any equivalent provisions for local TV. The local TV sector is calling for the Bill to include provisions to ensure that local TV is not prejudiced by any potential future support mechanisms for local media and can apply to participate on fair and equal terms.

---

<sup>1</sup> [https://assets.publishing.service.gov.uk/media/6544c6cd9e05fd0014be7cbb/Media\\_Bill\\_Overarching\\_IA\\_-\\_Published\\_Version.pdf](https://assets.publishing.service.gov.uk/media/6544c6cd9e05fd0014be7cbb/Media_Bill_Overarching_IA_-_Published_Version.pdf)

## **Appendix 1: suggested amendments**

13. The below draft amendments seek to update the Bill so that local TV is included in its scope.
14. The local TV sector is open to and actively invites members' views on what changes may need to be made to the amendment as proposed below.
15. Suggested changes to the original text of the Bill and suggested insertions are written in red text.

### **Part 1 - Public service television**

#### ***Addition:***

#### 28. Financial assistance for local digital television programme services

After section 359 of the Communications Act 2003 insert–

*“Financial assistance for local digital television programme services*

#### 359B Power of the Secretary of State to give financial assistance for local digital television programme services

1. The Secretary of State may give financial assistance for or in connection with services of a description in relation to which provision is for the time being in force under section 244.
2. The financial assistance may be given–
  - a. by way of grant, loan or guarantee or in any other form, and
  - b. subject to such conditions as the Secretary of State considers appropriate.
3. The conditions may (among other things) include provision under which the financial assistance is to be repaid or otherwise made good (with or without interest).

### **Part 2 - Prominence on television selection services**

#### **362AA Designation of internet programme services**

- (1) In this Part, “designated internet programme service” means–
  - a. an internet programme service provided by the BBC,
  - b. an internet programme service provided by a licensed public service broadcaster channel other than the BBC and designated by OFCOM under subsection (2) for the purposes of this Part,
  - c. an internet programme service provided by a person associated with a licensed public service broadcaster channel and so designated by OFCOM.
- (2) OFCOM may designate an internet programme service provided by a licensed public service broadcaster channel other than the BBC or a person associated with a licensed public service broadcaster channel if –
  - a. the service satisfies the conditions in subsection (3), (4), or (5) that apply to it; and
  - b. OFCOM consider that it is appropriate to designate the service.
- (3) The conditions in the case of an internet programme service provided by the provider of a licensed public service channel or a person associated with the provider of that licensed public service channel are–
  - a. that the service makes or would, if designated, be capable of making a significant contribution to the fulfilment of the public service remit for that licensed public service channel; and
  - b. that the public service remit content included in the service is readily discoverable and is promoted by the service.

- (4) The conditions in the case of an internet programme service provided by S4C or a person associated with S4C are–
- a. that the service makes or would, if designated, be capable of making a significant contribution to the fulfilment of S4C’s public service remit; and
  - b. that the public service remit content included in the service is readily discoverable and is promoted by the service.
- (5) The conditions in the case of an internet programme service provided by a person associated with the BBC are–
- a. that the service makes or would, if designated, be capable of making a significant contribution to the promotion of one or more of the BBC’s public purposes; and
  - b. that the content contributing to the promotion of one or more of those purposes which is included in the service is readily discoverable and is promoted by the service.
- (6) In considering whether it is appropriate to designate an internet programme service provided by a public service broadcaster other than BBC or a person associated with such a broadcaster **or a local digital television programme service or a person associated with such a broadcaster**, OFCOM must have regard, in particular, to the following matters–
- a. any proposals included in the relevant public service broadcaster’s latest statement of programme policy published under section 266 or 267 or paragraph 4 of Schedule 12 as to the contribution that its internet programme service or (as the case may be) the internet programme service of a person associated with it will make towards fulfilling the public service remit for the licensed public service channel or (as the case may be) S4C’s public service remit;
  - b. whether that proposed contribution is capable of satisfying the needs and interests of– (i) a specific audience, in a case where the service would, if designated, be the second or further designated internet programme service provided by a public service broadcaster or a person associated with that broadcaster, or (ii) a wide range of audiences, in any other case;
  - c. how effective and efficient is the relevant public service broadcaster’s monitoring of its performance so far as relating to the fulfilment of the public service remit for the licensed public service channel or (as the case may be) S4C’s public service remit.
- (7) **In considering whether it is appropriate to designate an internet programme service provided by a local digital television programme service or a person associated with such a broadcaster, OFCOM must have regard, in particular, to the following matters-**
- a. **the proposals made by the local digital television programme service provider as to the contribution that its internet programme service or (as the case may be) the internet programme service of a person associated with it will make towards fulfilling the public service remit for that service; and**
  - b. **whether the proposed contribution would be of particular interest to – (i) persons living or working within the area or locality for which the internet programme service is primarily targeted and surrounding areas, or (ii) to persons living or working within a part of that area or locality; or (iii) to a specific audience living or working within that area or locality or a part of it.**
- (8) ~~7~~ In considering whether it is appropriate to designate an internet programme service provided by a person associated with the BBC, OFCOM must have regard, in particular, to the following matters-
- a. any proposals included in a statement of policy made by the BBC in pursuance of the BBC Charter and Agreement as to the contribution that the service will make towards the promotion of one or more of the BBC’s public purposes;
  - b. whether that proposed contribution is capable of satisfying the needs and interests of–

- i. (a specific audience, in a case where the service would, if designated, be the second or further designated internet programme service provided by the BBC or a person associated with the BBC, or
    - ii. a wide range of audiences, in any other case;
  - c. how effective and efficient is the BBC's monitoring of the contribution of persons associated with the BBC to the promotion of one or more of the BBC's public purposes.
- (9) ~~8~~: Before designating an internet programme service, OFCOM must consult–
- a. the provider of the service;
  - b. such other persons as OFCOM consider appropriate.
- (10) ~~9~~: The regulatory regime for every licensed public service channel includes the conditions that OFCOM consider appropriate for securing that–
- a. a designated internet programme service provided by the provider of that channel, or an internet programme service provided by a person associated with the provider of that channel and designated by reference to the public service remit for that channel, makes a significant contribution to the fulfilment of that remit, and
  - b. the public service remit content included in the service is readily discoverable and is promoted by the service.
- (11) ~~10~~: For the purposes of this Part, an internet programme service is a service which satisfies the following requirements–
- a. its principal purpose is the provision of programmes,
  - b. the programmes viewed by a user of the service are received by the user by means of the internet, and
  - c. the programmes it provides to a user of the service are either–
    - i. contained in a single on-demand programme service, or
    - ii. contained in an on-demand programme service and one or more other services which are either on-demand programme services or other services that consist of, or have as their principal purpose the provision of, programmes.
- (12) ~~11~~: In this section– “public service remit”–
- a. in relation to a Channel 3 service or Channel 5, has the meaning given by section 265(2);
  - b. in relation to Channel 4, has the meaning given by section 265(3);
  - c. in relation to S4C, has the meaning given by section 204A;
  - d. in relation to a local digital television programme service, has the meaning approved by OFCOM from time-to-time taking account of section 244(4);
- “public service remit content”, in relation to an internet programme service provided by a licensed public service broadcaster channel other than the BBC or a person associated with such a broadcaster, means material included in the internet programme service that contributes to the fulfilment of–
- a. the public service remit for the licensed public service channel in question,
  - b. S4C's public service remit (as the case may be);

In this section - “licensed public service channel” - means a service in relation to which provision is for the time being in force under section 310(4).

### **362AM Meaning of “the agreement objectives”**

- (3) The following are listed channels for the purposes of this section–
- (a) any service of television programmes provided by the BBC so as to be available for reception by members of the public;

(b) any Channel 3 service;

(c) Channel 4;

(d) Channel 5;

(e) S4C Digital;

(f) any local digital television programme service that OFCOM determines is willing and able to offer an internet programme service.

*December 2023*