

Channel 4 submission to the House of Commons Public Bill Committee on the Media Bill

1. Introduction

We welcome the opportunity to provide evidence to the Public Bill Committee ahead of Committee Stage of the Media Bill. This is a crucial piece of legislation that brings in reform of the sector which is greatly overdue.

It has been 20 years since the Communications Act, and the rules that govern the TV landscape are in need of urgent modernisation to reflect the rapidly evolving market. We strongly support the Government's commitment to bringing forward these changes, noting the widespread cross-party support for the Bill. We welcome the Bill's formal introduction last month and the quick passage through Bill Committee.

In particular, we welcome the provisions on:

- Prominence, which ensure visibility and accessibility to public service broadcast content in the streaming age;
- a new and simplified public service remit for TV, which recognises the wide range of platforms through which audiences are now accessing content;
- strengthening the listed events regime to make clear it is a PSB specific benefit; and
- the Accessibility and Standards Codes which level the playing field between broadcasters and streaming services.

We recognise that greater flexibility to produce and monetise our own content could strengthen Channel 4's long-term financial sustainability and we support the Government's intention to increase the independent production quota on C4C from 25% to 35% should we start making our own content.

We remain committed to ensuring that independent producers, especially those in the nations and regions, continue to thrive and we want Channel 4 to remain an engine for this growth. That is why we have recommitted to our voluntary commitment that at least 50% of expenditure on programmes made in the UK for viewing on the service must be allocated to the production of programmes produced outside the M25.

Overall, we welcome this Bill which provides much needed modernisation of the regulatory regime for UK broadcasting. There are, however, a narrow set of provisions we would urge the Committee to deliberate on further. These provisions, which are set out in more detail below, are:

- **Prominence:** as we have said, prominence plays a crucial role in ensuring the availability and visibility of PSB content in the streaming age. The Bill gives significant discretion to Ofcom and the Secretary of State in relation to how the regime is scoped and implemented. To that end, we think it is important that Ofcom is able to exercise its discretionary powers to ensure that the Bill achieves its objectives and ensures that PSB content is among the most prominent within the user interfaces of TV platforms.
- **Listed events:** to future-proof the regime and ensure it continuously reflects changing audience habits, it is essential that digital rights are included in the updated framework to ensure UK audiences can come together for the biggest sporting moments, however they choose to watch. We strongly believe that the live streams of listed events should be made available free to air and should therefore fall within the scope of the Bill.

2. C4C clauses

2.1 Removal of the publisher broadcaster restriction

We welcome the Government's decision to provide greater commercial flexibility by affording Channel 4 the option to produce and own some of its content should we choose to. We have been working closely with the Department of Culture, Media and Sport (DCMS) to ensure that any form of in-house production would enhance the value of Channel 4's public service role and mitigate negative impacts on the independent production sector. This process was complemented by DCMS' call for evidence, which invited independent production companies to provide their views on preferred mitigations. These discussions have resulted in a package of measures to complement Channel 4's new freedom to produce and own some of its content should we choose to. We understand that the UK screen sector trade body, Pact, is satisfied with the package.

In-house production could offer good long-term support for Channel 4's financial sustainability. However, we are clear that this will not alter our fundamental belief in the importance of a diverse range of independent producers in the UK. Our partnerships with the independent sector have allowed companies to grow and expand by launching shows with us and owning their own IP. Those partnerships have been, and will remain, the lifeblood of Channel 4 and the UK creative sector.

Any move Channel 4 may make into in-house TV production would be gradual, and build on the existing diversity in the market, with the intention of avoiding any market shock. Should Channel 4 decide to enter into production, we would expect five years after launch, that Channel 4's commissioning investment with independent producers will still substantially exceed in-house production spend.

This would be further strengthened by an increase in Channel 4's existing qualifying independent production quota from 25% to 35% – the highest of any UK broadcaster – to bolster our commitment to the sector, and particularly to small and medium-sized independent producers.

Channel 4 remains entirely committed to its presence, programme-making and impact across the Nations and Regions. This includes its commitment to regional producers, voluntary investing 50% of its commissioning budget outside of London and growing its 4Skills training which promotes social mobility and economic growth across the UK.

2.2 Sustainability duty

We support the Government's decision to introduce a sustainability duty for C4C in line with the Companies Act 2006. We worked closely with the Government to ensure that the sustainability duty is clear and mirrors the directors' duty in section 172 of the Companies Act 2006. We are content with the revised wording published in the bill.

3. PSB remit

We welcome the simpler, streamlined public service remit that encourages reaching audiences on a wide range of platforms. We support the new, shorter remit for public service broadcasters which allows multi-platform delivery to contribute towards meeting the remit and modernises the genre requirements – allowing PSBs to play to their strengths and to collectively serve a wide range of genres. These changes recognise the increasing shift to digital and competition pressures facing PSBs.

The specific public service remit for the Channel 4 main channel will remain in place, as well as the wide-ranging duties that apply to Channel 4's content across digital platforms which are set out in section 198A of the Communications Act. In addition, our main channel will continue to be subject to detailed and specific licence requirements (including quotas). We will continue to be under a duty to report to Ofcom annually on how we are meeting these obligations on linear TV and on-

demand. Taken together, these various elements of the legislative and regulatory framework will ensure that Channel 4 continues to be held robustly to account for delivering the benefits of PSB to audiences.

4. Prominence

The new prominence framework brings forward rules that are crucial for the digital streaming age. Without them, Channel 4 and other PSBs risk disappearing from view on major TV platforms that are used by an increasing proportion of the UK population to find and view content.

Overall, the framework provides a workable balance between legislative clarity and giving Ofcom the space to set out critical detail in guidance that can be adapted as technology and consumer habits change.

In a linear world, “appropriate degree of prominence” has been codified by Ofcom to mean a fixed, high slot on the EPG. However, connected TV platforms display content to viewers in a huge variety of ways, and Ofcom has yet to set out specifically what prominence means within this more complex context.

Whilst it is right that Ofcom should work out complex detail in forthcoming guidance, it is important the independent regulator has a clear steer from Parliament on the parameters of this policy intention. The regime should be suitably flexible to adapt to viewer behaviours and changing technology whilst continuing to acknowledge the important role that public service content plays in society.

Ofcom must have sufficient regulatory power to ensure that the prominence measures are robust and can be enforced.

5. Listed Events

Reforms to strengthen the role of Public Service Broadcasters within the Listed Events regime are welcome, but digital rights must be included in the updated framework to ensure UK audiences can come together for the biggest sporting moments, whether they choose to watch on live TV or online. This will ensure that the regime is future-proofed and that UK audiences can enjoy universal coverage for events of national importance. In our view the case is straightforward: if the rationale for ensuring that events of national importance are available free to air still stands, then the regime should be extended to reflect the way people now view content. We therefore believe that Digital Rights should be included in the Listed Events framework.

We urge the Public Bill Committee to include Digital Rights in the Listed Events framework.

6. Standards Code

We support the new regime that establishes a level regulatory playing field between broadcasters and the larger online streaming services. Viewers should have confidence that VoD services are abiding by high content standards and applying robust audience protection measures, such as those that C4C applies across its broadcast and streamed services.

We do not consider it appropriate to extend the BBFC classification system to content that already complies with the Ofcom Broadcasting Code. We already have an age guidance system in place that is well understood by audiences. Introducing additional requirements would be disproportionate and potentially confusing to audiences.