

Submission to the DCMS Consultation on Sustainable independent and impartial news; in the Nations, locally and in the regions

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**We are happy for our contribution to be published
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Response:

1. Do you agree that securing plural sources of impartial news for the Nations, locally and in the regions should be a key priority?

The production and circulation of independent, quality news is a hallmark of democratic societies with a complex history of commercial practices, regulatory controls and technological innovation. The demise of the existing business model of the local and regional press and of broadcast news in the regions together with the struggle for survival of many national newspapers demands a critical consideration of what we want news for and how it can be delivered.

Our response draws upon an extensive 2.5 year research project funded by the Leverhulme Trust to investigate the impact of new media on the news in the UK including local and national news, commercial and public service broadcasting, print, broadcast and online, mainstream and alternative news. It included over 170 interviews, 3 mini ethnographies and online content analysis of news. We are also drawing upon an additional study funded by the Carnegie Trust UK to explore the ways that Civil Society Associations (CSAs) and the media can better interact – whether that revolves around media content, media policy or media ownership.

Conclusions from this research (Fenton, 2009) are central to concerns regarding the nature and sustainability of news in the nations, locally and in the regions. Our research indicates that news media are in crisis: Newspaper circulation and readership levels are at an all time low; there has been a tremendous growth in the number of news outlets available including the advent of, and rapid increase in free papers, the emergence of 24 hour television news and the popularization of online and mobile platforms; a decline in advertising revenue combined with increased investment in new media technologies to attract audiences online alongside cuts in personnel have all had a negative impact on journalism (Freedman, 2009). The Newspaper Society notes that 101 local papers closed down between January and August 2009. The depreciation of the current business model

together with the increasing commercial pressures are devaluing the pursuit of news journalism that is in the public interest and, in particular, journalism that relies on original newsgathering and investigative reporting.

In this environment there is evidence of journalists being thrust into news production more akin to creative cannibalization than the craft of journalism – as they need to fill more space and to work at greater speed while also having improved access to stories and sources online – they talk less to their sources (both the elite and the non-elite such as civil society associations), are captured in desk-bound, cut and paste, administrative journalism. Ready made fodder from tried and tested sources takes precedence over the sheer difficulty of dealing with the enormity of user generated content or the overload of online information (Phillips, 2009).

In a commercial environment, news organizations foreground rationalization and marketization at the expense of ideal democratic objectives in a way that has led to a homogenization of content. Journalists spend a large amount of time monitoring other media, the news wires and user-generated content. Rewriting stories gained through this constant monitoring is the main task of many journalists (especially in online newsrooms). Analysis of the content of mainstream online news further reveals that much of the abundant news online is the same: news organizations often cover stories from the same angles and different news organizations repeatedly present the same information in their stories (Redden and Witschge, 2009).

In this context, protecting and enhancing a diversity of media content has become more important rather than less important. Even though there now is a plethora of media outlets, and citizens and civil society can publish media content more easily than ever, there still is a significant threat to pluralism given the domination of a limited number of organizations that control the flow of news and the contours of public debate.

The large traditional news organizations with a strong market position and extensive and established news production infrastructure have responded to the current climate by investing heavily in online platforms. They have capitalized on their market dominance and brand loyalty and increased their audience share online. But this is an audience that is increasingly disinclined to pay for its news and is more likely to seek out only those fragments that are of particular interest to them. Nonetheless, UK citizens predominantly use sites that are run by existing news providers further asserting the already significant dominance of the major players (Ofcom, 2007). Furthermore the organisation of web search tends to send more users to the most popular sites in a “winners take all pattern” (Hindman 2009: 132). Added to this, Ofcom have found that, of the top ten news websites by unique user, four were run by internet-based organizations. These were Google News (a news aggregator site that produces none of its own content), Yahoo! News, AOL News, and MSN News (all sites that rely almost entirely on news agency reports) (House of Lords, 2008a). It seems ever likely that the voices on the web will be dominated by the larger, more established news providers in a manner that limits possibilities for increased pluralism.

2. Do you agree that sustainable, impartial news in the Nations, locally and in the regions is likely to require some top-up public funding?

News production has long been subject to different forms of public intervention, from preferential tax rates (for example the zero rating for VAT) to direct public funding (in the case of BBC World Service). In a particularly harsh commercial environment, news and current affairs journalism that purports to be for the public good and in the public interest, needs preserving and protecting (Schulhofer-Wohl and Garrido, 2009). This is not the same as preserving and protecting news organizations or even the news as we know it. In a world of communicative abundance there remains, more than ever, a sense that there are many things that news journalism ought to be doing – to monitor, to hold to account and to facilitate and maintain deliberation – we neglect this at our peril. To ignore it is to accept that the market can be relied upon to deliver the conditions for deliberative democracy to flourish. Our research offers clear evidence that this is far from true. Markets do not have democratic intent at their core. When markets (and business models) fail or come under threat, ethical practice is swept aside in pursuit of financial stability (Fenton and Witchesge, forthcoming; Phillips, 2009a). This is felt particularly keenly in local, regional and international news production. Here, the lack of economies of scale means there is little commercial incentive to provide for it and thus a demonstrable need for additional public funding.

However, we are not convinced that ITV should be freed from its obligations to deliver quality, impartial news in the regions in the first place. We agree with the assessment of ITV by the Competition Commission (CC) in its September 2009 decision to retain the Contracts Rights Renewal (CRR) system that governs rules on advertising rates. It concluded that while ‘ITV1’s market position has declined in certain respects, we consider that the competitive environment is still very similar to that identified in the CC’s 2003 report’ (Competition Commission 2009: 8) and noted ‘its continuing strength in the supply of mass audiences for advertisers’ (ibid.: 3). Through its popular digital channels and its continuing domination of television advertising, not to mention the government’s likely sanctioning of product placement which could yield revenues of anything between £35-100 million a year, the majority of it going to ITV1, ITV should continue to have some public service obligations in relation to regional news.

3. Do you agree that the Television Licence Fee should be used to support impartial news in the Nations, locally and in the regions in addition to BBC services?

We are against using the licence fee to fund any material other than that of the BBC. The BBC is protected to a large extent by the relative security of the licence fee, and is the leading news provider that can sustain quality public service content in the face of the wider financial concerns of commercial media. This is more critical than ever in the current economic climate. The position of the BBC as a news content producer over and above its role as a content distributor needs to be preserved. This means more investment in journalism and journalists rather than less.

We are emphatically against the use of public funds to support increased concentration of market share of organizations operating for commercial gain.

There seem to be three main arguments in favour of using the licence to support impartial news in addition to BBC services:

1. It would be fair;
2. It would be transparent as mechanisms are already in place to ensure accountability;
3. It would be independent and sustainable.

These are entirely spurious reasons and require careful rebuttal.

1. There is nothing fair about using public money to increase commercial revenues and shareholder profit. In the current economic climate this would be retrogressive and potentially highly unpopular.
2. Expecting the BBC Trust or even Ofcom to monitor and hold to account all news ventures that may receive some form of public subsidy is simply untenable and would involve additional levels of red tape as new structures of governance and procedures to ensure accountability would need to be developed. Ofcom's record in protecting ITV's public service record is hardly impressive given its permission, for example, to reduce regional current affairs output.
3. There is no reason why processes cannot be put in place to ensure that money from other sources (such as levies, see below) is also delivered on an independent basis, removed from the strings of government in the interest of democratic gain. This would not necessarily make these funds less sustainable just as resources for other key public services are distributed annually but still maintained. Indeed, one of the major reasons for opposing any 'top slicing' of the licence fee is that it would create a precedent that the fund can be cut into as and when necessary and thus undermine its long-term independence and sustainability. The argument that the licence fee is somehow more stable would therefore seem an entirely convenient but spurious one.

Furthermore, we are far from convinced that there is evidence of public support for top-slicing the licence fee to pay for regional news. The TNS/BMRB poll produced for the DCMS's current consultation revealed that 65 per cent of those polled agreed that a small part of the licence fee should be used to fund regional news outside the BBC (BMRB 2009). Yet the poll cites uncritically ITV's claim that it can no longer afford to make regional news and makes absolutely no reference to any other potential funding sources. This sort of approach is complemented by claim in the DCMS consultation paper to which we are responding that '[t]he evidence suggests that there is limited public appetite for any significant increase in the overall amount of public funding for original public service content' (DCMS 2009: 4). However, research carried out by Ipsos MORI for Ofcom in 2008 demonstrated that where participants were involved in a discussion about the various options for funding public service content, 'on balance the majority would be prepared to pay more in the future due to the important role that PSB and, in particular,

plurality plays in society (Ipsos MORI 2008: 11). Evidence of support for top-slicing and hostility towards public funding is, at best, ambiguous and cannot be taken for granted.

4. Do you agree that any funding within a contained contestable element of the television licence fee not required for impartial news should potentially be available to fund other forms of essential public service content, or should such funding be limited to news?

It is a matter of concern to us that the underlying purpose of this consultation seems to be not whether, but how a “contained contestable element” of licence fee money should be deployed. We strenuously object to this premise and to the concept of setting aside licence fee money for other purposes. We explain this position in more detail below.

5. Are there alternative funding mechanisms that you believe would deliver the above objectives more effectively?

Should ITV no longer be involved in the production of regional television news, our preferred mechanism for delivery of sustainable and independent news through IFNC is via industry levies. Despite our reservations noted above in relation to polling data, industry levies appear to be a popular mechanism amongst the public for raising additional revenue. Indeed, Ofcom found that industry charges were the most popular funding mechanism for PSB in the future with 50 per cent of those polled saying they were ‘totally acceptable’, the highest rate of all the options presented (Ofcom 2008: 94).

Levies, a surcharge or tax on the revenues or profit of certain sections of the media industry, are common in many European countries and are found to be popular among the public (IPPR, 2009). The Institute for Public Policy Research has conducted a thorough investigation for BECTU and the NUJ into the potential of industry levies as a means of funding of public service broadcasting (IPPR, 2009). They have found that a “one per cent levy on pay TV operators such as Sky and Virgin Media could bring in around £70 million a year. A similar fee imposed on the country's five major mobile operators could generate £208 million a year. Making Google meet its full tax liability in Britain would boost the pot by a further £100 million” (NUJ, 2009: 10). Levies could include direct media levies on, for example, broadcasters, cinema owners, computer games manufacturers, Internet Service Providers and mobile phone operators (IPPR, 2009: 4). We would recommend a review of industry levies to support public service content.

Alternative funding models could also include the charging of news aggregators that exploit news content. Online, news is often accessed, not directly through the actual news source, but through portals and news aggregators. News portals normally use the paid services of newswires and press agencies to gather their content. News aggregators, however, often only provide the headlines and first few lines, and link to the original news source. Some of that is licensed material, but a lot of the snippets of articles provided on the news aggregators’ sites are not paid for as it is considered to fall under ‘fair use’ by the aggregators (Pérez-Peña, 2009; *Economist*, 2009).

News aggregators stand accused of the free exploitation of professional copy for their own commercial gain. The Associated Press, for instance, have indicated they will take legal actions against news organizations that do not obtain permission to publish their material (Pérez-Peña, 2009). Similarly, in parts of Europe, newspapers have taken actions against Google to prevent unauthorized use of their material. Regulation is required to ensure that appropriate revenues go to the original news producers and not just to those who present and further disseminate the material.

We maintain that when discussing ways in which money from whatever means can be freed up for public service content, at least part of this funding should be used to bring new voices to the public sphere, rather than merely propping up the business model of old voices. Government funding, industry levies and other ways of inserting resources in the media landscape will not, on their own, guarantee diversity and deliberation. Distribution of money syndicated for media production in the public interest should happen according to key criteria requiring independent regulation to ensure that recipients of public money fulfil a series of public policy obligations.

But this is not just about sustaining news provision in the regions. Alongside the development of IFNCs, DCMS should seriously consider alternative approaches to ensuring public service news content in newspapers generally as well as in broadcasting. Importantly, the emphasis must be on establishing the conditions and culture to ensure content is in the public interest and not on propping up failed business models. It should consider tax breaks for organizations delivering a particular level of public service media content; encourage charitable funding via donations to public service news providers through the design of tax breaks (currently news delivery is not acceptable as a charitable endeavour). Similarly, to qualify for any tax benefits, commercial news media should be required to meet pre-established standards of transparency in news reporting/writing (as recommended by the Media Standards Trust, 2009).

All news organizations should be required to be accountable for their own coverage and be seen to embrace transparency in their news gathering activities and, where there is no clearly stated confidentiality requirement, declare the source of their information to encourage original, investigative reporting, allow users to check the veracity of information and limit cannibalization and over-reliance on news agencies. This is particularly important for overseas coverage.

The Charity Commission should recognise journalism in the public interest as a charitable endeavour available for charitable status.

A role of journalist ombudsman should be developed with civil society input, to act as an industry watchdog on behalf of journalists so that any journalist that comes under undue pressure to flout codes and conventions of good journalistic practice for commercial gain or market position has an official route for complaint as well as protection of their position.

6. Do you agree with the proposal to set a maximum percentage of Television Licence Fee revenue which could be set aside as a contained contestable element?

No. It is highly unlikely that the majority of the licence-fee paying public fully appreciates what a contained contestable element is. As this is a public consultation it is a shame that more effort has not been made to ensure that the public has a say in this consideration (other than in the flawed BMRB opinion poll discussed above). It is also a shame that the survey conducted by the DCMS to investigate the concerns of the public in this regard was published only days before the close of this consultation and not in time for such an important consultation to be conducted in good faith.

Furthermore ‘contained elements’ have a habit of being changed according to the political desires of incumbent administrations – consider the debates on the lifting of the cap on student fees. ‘Maximums’ have a strange habit of increasing rather than decreasing. Setting aside a proportion of the licence fee, however small, would prove to be the thin end of the wedge. This must not be allowed to happen. If it does, we will undoubtedly look back and wonder why we plundered one of our greatest and most successful national assets.

7. Do you agree that amending the BBC Agreement could provide the necessary protection to the BBC’s future funding and independence?

Amending the BBC Agreement to set out an agreed maximum percentage of the Television Licence fee income that could be set aside as a contestable element would offer no protection as it could simply be changed again. This is precisely the argument that was put over the cap on student fees that is now under threat.

8. Do you agree that the use of any contained contestable element within the Television Licence Fee should be restricted to the public purposes set out in the BBC Charter?

We are uncomfortable with the way in which contestability has been introduced into public policy debate as a means of legitimizing (and making inevitable) cuts in revenue granted to the BBC. Having said that, we believe strongly that any contained contestable element should be used *for* the public purposes set out in the BBC charter and by an organization that is well placed to deliver these public purposes: the BBC.

Conclusion

We are uncomfortable with the underlying premise of this consultation: that the challenging market conditions for ITV *demand* a new way of paying for non-BBC regional news and that the most effective and popular funding mechanism would be to draw on a small part of the Television Licence Fee to subsidise regional news programmes produced by private companies.

We believe that top-slicing the licence fee would be a precedent that would be hard to roll back and difficult to contain in the future.

The idea of a new structure of regional news production involving IFNC is an intriguing one but it is diminished by an insistence that only the licence fee be considered as a source of funding (nowhere in the submission document is a reference to other possibilities including industry levies) and by a lack of imagination concerning the sorts of partnerships and organizations (involving journalists, broadcasters, civil society groups, universities, NGOs) who could be mobilized.

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