

Briefing Note

Media Act

June 2024

The [Media Act](#) was passed on 24th May 2024.

There are a number of Acts to which the new Act refers - the 1990, 1996, 2003 Acts, but broadcasting policy is also affected by the Digital Economy Acts in 2010 and 2017.

[The Media Bill Memorandum](#) sets out the 'overall purpose of the Bill' which is 'to reform the legal framework for the regulation of PSB and radio in the UK, to enable UK public service broadcasters ...and UK radio to thrive in the long-term. The Bill will mean audiences can more easily access and enjoy quality, British-originated content and it will help to maintain a strong and diverse British broadcasting ecology.'

The focus is on:

- British content
- Regulating online as well as traditional broadcast content
- Ensuring the future sustainability of UK public service broadcasting and radio

Details VLV supported

- Ensuring PSB content is easily discoverable on smart TVs and streaming sticks
- Bringing services such as Netflix, Prime Video and Disney+ under a new Ofcom code that will allow the regulator to investigate and enforce content standards (against harm, offence etc).
- SVODs will also be required to provide subtitles, audio description and signing to support those with disabilities
- Allowing PSBs to satisfy their remit via online content, not just linear programming– as long as PSB content is not 'buried' and Ofcom monitors to make it is not buried.
- Smart speaker platforms - such as Google and Amazon - will be required by law to ensure access to all licenced UK radio stations, from major national stations to the smallest community stations. Platforms will be banned from charging stations for being hosted on their services or overlaying their own adverts over the top of those stations' programmes.
- The renewal of the commercial PSB Licences.
- Listed events will have to be broadcast on a PSB service and free to air.

VLV Concerns

- A reduction in the requirements for the PSBs to provide PSB type content
- Increased discretion for Ofcom in ensuring the delivery of PSB
- Impartiality regulation being too vague and subject to Ofcom's discretion
- The Listed Events regime not applying to on-demand content
- The definition of 'appropriate significance' for PSB apps on streaming devices being too vague
- Online audio content, such as podcasts, not being regulated in the same way as Video on Demand to protect citizens from misinformation
- The further deregulation of commercial radio which will lead to less local non-news content
- The diversity of national analogue commercial radio stations

The new Act places greater responsibility on Ofcom's shoulders to ensure that PSB is effectively delivered. Ofcom already has significant discretion in its implementation of regulation and recently there

have been questions as to whether it has been effective enough, for example in its regulation of impartiality.

The areas where Ofcom will have new responsibilities include:

- Amending and simplifying the requirements of the Public Service Broadcasters
- Drafting a Code for the regulation of content on VOD platforms
- Deciding what 'appropriate significance' means in relation to the prominence of PSB apps on streaming platforms
- Deciding what an 'appropriate range of genres' means in the context of the PSB Remit
- Removing some of the regulatory requirements of the commercial radio services

The Media Act reduces the burden on the Public Service Broadcasters and commercial radio, with the stated aim to ensure their sustainability in the future. It is clear that the global streaming platforms have put UK broadcasters under significant pressure and, while we completely support the goal to ensure the sustainability of UK PSB, we are concerned that the reduction in the PSB responsibilities goes too far.

PSB Remit

- The Act allows the PSBs as a whole to no longer provide specific content which is considered less commercially viable, such as religion and arts, and allows commercial radio to no longer provide non-news local content both of which we consider societally valuable.
- The new PSB Remit sets out provisions to ensure that audiences have access to:
 - News and current affairs
 - new/original content
 - which is made by a mix of broadcasters and independent producers
 - which are not only situated within the M25
 - content for children and young people
- The new remit specifies PSB as 'a sufficient quantity of audio-visual content that...(i) reflects the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom'.
- The Act removes the responsibility for the PSBs to provide: **education, sport, 'science, religion and other beliefs, social issues, matters of international significance or interest and matters of specialist interest'**.
- To allay concerns the Secretary of State will be able to introduce new quotas if there is evidence that certain types of programming are not being provided by the market but Ofcom will need to ensure it continues to monitor the delivery of these genres and to alert the Government if it considers there is a deficit.

Delivery of the PSB remit:

- The PSBs will be allowed to fulfil their PSB remit online as well as on linear channels. This may mean that they put less commercially viable content on their online platforms and their main TV channels become more overtly commercial.
- The problem with this approach is that
 - Since the availability of online content is governed by algorithms and personalisation, how will it be possible for Ofcom to assess whether PSB content is being properly promoted when each viewer is presented with their own personalised version of each app?
 - PSB content online could be less discoverable and have less societal impact;

- Ofcom has not as yet developed a methodology to ensure that content is readily discoverable and promoted which is the requirement in the Act.
- It is not clear whether Ofcom has any powers to enforce better prominence online for PSB content if it is found to be buried.
- How will 'an appropriate degree of prominence' on online VOD platforms be defined?
- What does it mean that 'public service remit content..should be readily discoverable' and 'promoted'?
- Some content will be available online on the PSB on-demand platforms but not everyone has access to online content – 6% of the population does not have broadband access. This means PSB content will no longer be universally available.

Impartiality:

- There has been significant concern about Ofcom's implementation of impartiality regulation in the past two years which has partly been triggered by the number of high profile sitting MPs presenting programmes on 'news' channels, but not in news bulletins on those channels.
- VLV argued that the Media Act provided an opportunity to tighten up the definition of 'News' in the existing Communications Act (Section 319(8)), however Amendments to implement better regulation were not accepted the Government.
- We also believe it is a weakness of the existing impartiality regulation that due impartiality is measured across a series of programmes or across the whole of a service (Section 320 (4) in the Communications Act). Viewers don't often or always watch a whole series of programmes even if they are linked or watch all the programmes included in the service in question.
- The current definition of news includes 'news in whatever form' in a service but this doesn't define 'news' adequately and therefore Ofcom has been left to define 'news'. VLV does not support Ofcom's definitions.

Listed Events

- VLV considers that the regime should extend to include digital rights so that audiences can view time shifted content on the PSB VOD platforms.

Radio

- There is yet more relaxation of regulation of Commercial Radio in the Act – including requirements on stations to provide specific genres of content and the amending Ofcom's duties around localness, to focus on a duty to provide local news and information but NOT non-news local content. Not all listeners are engaged by news but they might be by non-news content.

Online Audio Content

VLV recommended during the passage of the Bill that online audio content such as podcasts should be regulated in the same way as online TV-like content in order to protect audiences.

The diversity of analogue radio

VLV recommended that the changes in the Act which mean Ofcom will no longer be required to ensure a diversity of national analogue stations or a range and diversity of local analogue services should have been reconsidered.