

Culture, Media and Sport Committee

Oral evidence: Pre-legislative scrutiny of the Draft Media Bill, HC 1287

Tuesday 20 June 2023

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Members present: Dame Caroline Dinenage (Chair); Kevin Brennan; Clive Efford; Simon Jupp; John Nicolson.

Questions 78 - 156

Witnesses

I: Elin Morris, Chief Operating Officer, S4C; John Morrison, Chairman, MG Alba; and Clare Sumner CBE, Director, Policy, BBC.

II: Paul Oldfield, Controller, Policy, BBC; Matt Payton, Chief Executive, Radiocentre; and Martin Steers, Co-founder, UK Community Radio Network.



Examination of witnesses

Witnesses: Elin Morris, John Morrison and Clare Sumner CBE.

Q78 **Chair:** Welcome to this morning's meeting of the Culture, Media and Sport Committee as we continue our scrutiny of the Government's draft Media Bill. You may be aware that there are a few people missing today. Some of our members who took part in our previous sessions on this Bill are unable to be here today because they are on a Public Bill Committee. They are in hot demand, but we are very keen to ensure that this draft legislation is fit for purpose as the Government seek to modernise media regulation.

Our first panel is on public service broadcasting. We are joined by Elin Morris, Chief Operating Officer at S4C; John Morrison, Chairman of MG Alba; and Clare Sumner, Director of Policy at BBC. Welcome to all of you.

I will start the questions with Elin and Clare. This Bill would require smart TVs and other selection services to give what they call appropriate degrees of prominence to designated public service broadcasters. Elin, what do you regard as appropriate? What does that mean?

Elin Morris: Traditionally PSBs on linear EPGs had the top positions; "appropriate prominence" was the wording for the linear legislation. We have argued for significant prominence being stronger. There are so many ways of people accessing content. It is not just a set of channels. There will be tiles, search functions and different ways of opening your screen. We feel the stronger the wording in the Bill, the clearer the mandate is for the platforms to follow and make sure that PSBs get a high degree of prominence.

Speaking as a Welsh language—a minority language—PSB, there is a huge amount of choice and competition, and a huge amount of English language content available, so it is critical for us that the Welsh language content surfaces easily so that viewers can find it, at least in Wales. The stronger the wording and the guidance that Ofcom develops in light of it, the better we feel it will be to make sure that people continue to find Welsh language content and continue to enjoy it. Without this, it would be very hard for us to negotiate any form of prominence on connectivity platforms.

Q79 **Chair:** Thank you. Clare, do you see any risks in leaving the wording as it is at the moment?

Clare Sumner: I do. I should confess that I was involved in the 2003 Communications Act when I was a civil servant. Here we are 20 years later in the fastest growing digital media market, which is hostile and not always friendly. We welcome this Bill and it is urgent. I think that some of the detail that we will be discussing today, which I know the Committee is keen to get into, is really important, but I don't think it should delay it. This is a very simple change to potentially one of the 320 sections of the Act.



The reason why I think it is so important is because we have already seen All 4 on Amazon Fire on the second page. We have already seen with Sky, although this is not particularly targeted at Sky, the BBC children's channels being lower than we would have liked to see them. The natural thing that competitive markets do is to sometimes self-preference their own products. We can't take anything for granted and "appropriate" is often a muddy term that can be used to people's advantage either way. Given that the detail is so important, and given the objective and spirit of this—PSBs are very significant in this country, and seven out of 10 audiences in Ofcom research say they want to find British content—we think this is in the spirit of the Bill. It is a minor change, but we need to be as tough as possible because we don't know about the competitors. They will be coming and they will take every advantage in a commercial setting perhaps to try to reduce the prominence of the PSBs.

Q80 Chair: How do you think compliance with the prominence aspect of the legislation should be measured?

Clare Sumner: I think that we should be looking for the PSBs, in particular, to be among the top tiles and to make sure that that is guaranteed. Everybody you see before you, including S4C, is arguing that the tradition of the EPG should be mirrored in the digital space and it should be mirrored in quite a robust way, which is why I support "significant".

Q81 Chair: Elin, do you think that the Bill gives sufficient clarity that the PSBs should have appropriate prominence in the user interfaces across all the major routes, like home pages, and search and voice searches?

Elin Morris: That is quite high level. I think the key thing is to establish the principles because a lot will depend on Ofcom developing guidance on the specifics and there will be consultation. We appreciate that the Bill can't be too specific because it needs to be future-proofed. The stronger and clearer the principles the better. It needs to be covering what kind of devices would be in scope with flexibility to change the regulations to bring more devices within scope as user patterns change in the future. At the moment, we are covering devices that are used primarily to view television content, so that will not include things like mobile phones, laptops, iPads and so on. We need the flexibility to extend the prominence requirements should behaviour change and people stop watching content on the big TV screen as their main pattern in future. That framework needs to be clear, strong and robust, and with the flexibility to adapt in line with future changes.

Q82 Chair: John, how important is prominence for Alba?

John Morrison: Prominence is massive for Alba, as is discoverability. These are two key words for us because we have seen, in line with other broadcasters, that there has been a drop-off already, particularly among young audiences, in watching television on linear television. They are



moving to digital. We are trying to adapt a strategy of digital first, which has a cost that we need to find some money for, but basically going into digital has huge potential opportunities for minority languages like Gaelic. It creates opportunities for us, but also if you can't find the Gaelic, we will become irrelevant. The more difficult it is to find, the less likely it is the audience will find it, so we have to now chase the audience where mainly the young audience is going at the moment. We need to find them and bring them back because we are already losing them.

Q83 Chair: Clare, the BBC said in its evidence that it wants to be able to capture not just smart TVs and streaming sticks but multi-use devices—things like mobile phones and games consoles. Other PSBs have not shown the same level of concern. Why is the BBC so concerned about that? What are the major risks of leaving out these other forms of access?

Clare Sumner: We can see already that in 2022 eight in 10 children watched TV on a device other than a TV set and they are accessing it through tablets, mobile phones, gaming consoles and potentially computers. The other thing that is important about this legislation—and we have two suggestions—is that it is future-proofed. We can see the behaviour now, so we welcome the fact that DCMS acknowledges that, but for some reason it is reluctant to put that on the face of the Bill. Given we know that that is before us now, it seems an opportunity to make sure that, as far as we can be, we should be as robust as possible. If we have learnt anything, think about the adaption from black and white television to colour television and how long that took; tablets were up and running in a couple of years.

The other thing that we think should happen is that the Secretary of State should review this every three years. Potentially the flexibility with Ofcom, as my colleague said, is important but Parliament has an opportunity to be both with the times and ahead of the times. That is always difficult in legislation but there are some quick wins in that that make the difference. Part of the overall concern is where we have the opportunity to get this technical detail right, because the Bill is, as you know, many hundreds of pages and pretty technical. There is a simple option to make sure that that technical detail gives us as much robustness in this framework, which is the spirit that this Committee supported.

Q84 Chair: Talking of technical detail—

Clare Sumner: Please don't quiz me on it.

Chair: I want to talk to you about the issue of whether Ofcom can remove legacy selection services that don't keep receiving technical updates from their manufacturer. Do you think that the draft Bill is sufficiently clear on that aspect?



HOUSE OF COMMONS

Clare Sumner: I think that from the way that Ofcom has worked in the past, it does keep an eye on these things very closely, particularly for perhaps under-served audiences. I think that it is broadly adequate in that area, but it needs care.

Q85 **Chair:** What to your mind would be the consequences of not including things like free-standing TV apps that have a significant number of users?

Clare Sumner: Which apps in particular do you mean by that?

Chair: Anything that is around today that is free-standing, and anything that might come up in the future.

Clare Sumner: For example, like a Sky Go app on your phone or something like that?

Chair: Yes.

Clare Sumner: Again, we can't predict everything and we are certainly not trying to control the front page of anybody's phone. Where the BBC and other PSBs are on platforms and you can access those through an app, we should get the equivalent prominence that you would through a smart television.

Q86 **Chair:** Does anyone have anything to add to that?

Elin Morris: I agree. If it is a TV selection service it should be device-neutral. Once you are into that TV selection service on your device, the principles of prominence should still apply. I can't see any justification for treating them differently from when you access an app on a smart TV screen.

Chair: Before I move on to Clive, I remind all members of the Committee to declare any interests at the start of their questioning.

Q87 **Clive Efford:** I have none to declare. The agreement objectives set the framework for the PSBs and regulated television selection services to negotiate agreements. What should be the overall aims and objectives of the agreement objectives between the RTSS and the PSBs? I will ask you first, Clare.

Clare Sumner: I am sorry, would you mind repeating that?

Clive Efford: It is about the agreement objectives. What should be the overall aim of the agreement objectives?

Clare Sumner: The three specific agreement objectives in the detail. The other PSBs have already raised concerns about the cost element and, from the BBC's perspective, we welcome the fact that we are exempt from the "must offer" because that is obviously in our charter. We think that the "must carry" for the BBC should reflect the current distribution policy that we have more and, therefore, should relate to our own framework agreement. Through that, for example, there are broader



HOUSE OF COMMONS

criteria that involve things like attribution and data to protect the quality of the end product that users will get. In the past those have been issues with, for example, Sky and Virgin, so we can see them being issues in the future. We want the same level of protection as is offered in our distribution policy, which comes under the charter and the BBC framework agreement—that is why I just paused on “agreement”—so that we get a more comprehensive regime. We think, for the BBC, that needs a particular amendment.

Q88 Clive Efford: Do they meet what you suggest are the aims and objectives as they are currently drafted?

Clare Sumner: I think not quite because I don’t think that the second one goes far enough. That puts at risk in a commercial negotiation some of the important elements of control and data is a critical one. The PSBs need good access to things like data to run effective systems for the audience.

Q89 Clive Efford: Would you include that in legislation?

Clare Sumner: From the BBC’s perspective, we want to make the link to our framework, which does that for us. That could be a framework that works for the other PSBs, but I think they have spoken to you about that too and said that it is not wide enough. The BBC’s particular distribution policy is broader than that and it also includes value for money, which is another important factor.

Q90 Clive Efford: Erin, do you have anything to say on that?

Elin Morris: Yes, there are two points for us. One is that being a smaller PSB it is more difficult to negotiate commercial terms on the level playing field. We need support from the legislation to ensure that we end up with a set of fair terms for us as a PSB. Secondly, we carry advertisements on our services, so we have concerns. I know that ITV has talked about this. At the moment there is no regulation on the share of ad income that a platform can retain for itself. We want to see the ad income being passed over to the service provider. I think that we need broader principles in the legislation to ensure that we have a complete set of fair terms rather than rely on just the cost basis.

Clive Efford: Sorry, I called you Erin. That is my granddaughter’s name. I apologise, Elin.

Elin Morris: No problem at all.

Q91 Clive Efford: You mentioned the “must carry” and “must offer” obligations, Clare. Do they align with your existing distribution policy?

Clare Sumner: The “must offer” where we have been exempted does because the BBC has the broad duty to enable the universality of the BBC, which is important. For the “must carry” at the moment, either you exempt the BBC based on our current policy or you have to look at broadening it out for everybody. I think that is a choice.



Q92 **Clive Efford:** Elin, I will come back to you because you mentioned areas other than cost that should be part of those negotiations. Can you be specific about what areas other than cost, just for our purposes?

Elin Morris: Things like we would receive the ad income around our content, we receive data around our content on that platform, around distribution and so on. It is that wider package and those are examples.

Q93 **Clive Efford:** Do you have anything to add, John?

John Morrison: Not really, because we would be working with the BBC on this one.

Q94 **John Nicolson:** Thank you very much indeed for joining us this morning. I suppose that something to declare is that I come from a long line of Gaelic speakers. I, sadly, am the first generation in my family not to speak any Gaelic at all, and that was because my grandmother, who was a fluent speaker, did not learn English until she was 18 and was beaten at school for speaking Gaelic. She had nine children and spoke Gaelic to the older ones. By the time she got down to my dad, I think she had lost the will a bit because her husband, an Orcadian, was quite hostile. My father could get by in Gaelic, but not enough to recite nursery rhymes to me in it. There is a thousand-year history and I am the first breaking it, which feels terribly sad to me. I think that a number of the Committee, with the exception of Mr Brennan, who is Welsh learner, will be familiar with the perilous state of our minority languages.

I will begin with you, Ms Morris. I remember the establishment of S4C. The Thatcher Government promised it, then they withdrew their promise and Gwynfor Evans was the person who united Wales around this and secured the channel. How important do you think that was in saving Welsh?

Elin Morris: It is very important. I can't overstate it. In Wales we have several key pillars to ensure the survival and growth of the language. One is that Welsh-medium education is important and the second is Welsh media. We have normalised the use of the Welsh language. Also economically it is important, so there are lots of companies making content for S4C throughout Wales, in most areas of Wales, so there are good Welsh-speaking jobs. I can't imagine Wales without S4C and certainly the Welsh language would not be what it is today without it—without question.

Q95 **John Nicolson:** It is quite interesting because if you go back 100 years, if it is the same as Scotland, to speak Welsh was a disadvantage. It meant you were not part of the educated middle classes. Am I right that now the middle classes encourage speaking Welsh for their children not least, as you say, because it guarantees them an extra A-level and it also allows them to get jobs in the sector? Is there a class element in speaking Welsh?

Elin Morris: I would not say it is a class element, no. I think it straddles all classes.



Q96 **John Nicolson:** There used to be a class element; am I right?

Elin Morris: I think it straddles. I come from a small rural farm—working class. In rural areas it is widespread; it is a community language. It has grown phenomenally in the cities. I don't think it is a class issue. S4C is keen to ensure that we have as much diversity as possible on the channel, with what people see on the screen, but also with people coming into the industry. We are always supporting initiatives to attract new people of all backgrounds—socioeconomic and other diverse backgrounds. I certainly would not want to treat Welsh speaking as being a class thing. It is wider than that.

Q97 **John Nicolson:** Okay. Mr Morrison, I will come on to you. I think it would be quite useful if you were to tell the Committee why Gaelic is in the perilous state that it is in now. Once upon a time you would go just a little bit north of Glasgow to Loch Lomond and it was the Gàidhealtachd, the Gaelic speaking area, everywhere from there all the way up. It was in a part of the Borders as well, the south-west; you would have Galloway Gaelic. Burns almost certainly knew of Gaelic because there was Ayrshire Gaelic. This was not a minority language. How has it ended up with such a tiny number of people? I suppose it was my grandmother's experience of being beaten for speaking her own language in the same way as in Wales when the last kid speaking Welsh in the playground had to wear a Welsh Not—a wee blackboard around their neck. There was shaming and violence associated with it too, wasn't there?

John Morrison: There was. I think less violence, although beating for speaking the language was pretty violent.

I will try to do a sweep of 1,000 years of history in just over a minute. It is interesting that you said 1,000 years of unbroken Gaelic in your family. In the 1100s there was a king who married somebody outwith Scotland and the anglicisation of the royal family started. By the 1400s Gaelic was probably in decline in most of Scotland apart from Glasgow, which was still a heartland because people used to come down to work from the Highlands and Islands. The big change was after the second Jacobite rebellion or rising when there were active Acts of Parliament against Gaelic. The bagpipes were proscribed, wearing the kilt was proscribed, the speaking of the Gaelic language was proscribed—effectively the state was legislating against the language. The 1872 Act, which made education compulsory across Scotland, did not include Gaelic.

It is interesting that you mentioned your family going to school. When my mother and father went to school, people would have been belted for speaking the language because it was seen as the language that was going to hold them back. Actually in those days it possibly was, because the sort of professional class that you were talking about, Elin, did not exist in Gaelic apart from Gaelic-speaking ministers and doctors who would go back usually to their communities.



That meant that it has been legislated against for a long time and it was not until the 1980s that the then Conservative Government saw value in starting Gaelic-medium education. That started with the middle classes, probably, in a school in Glasgow and that school is now a secondary school. It is in a different building, obviously, but that school is now regarded as one of the best performing state schools in the city and in the country.

Q98 John Nicolson: This is no surprise, of course, to other countries where they are bilingual or trilingual. There are four languages on the banknotes in Switzerland. We know how useful it is.

Before I hand back to the Chair, in summary it seems strange to go from 1,000 years of history to looking at something like prominence, but if I go on to my TV I will look down the list of channels and inevitably the first few are the ones that catch your attention, otherwise you have to literally go searching for channels. How important is it for people to see S4C or Gaelic language television right up the top?

John Morrison: Critically important because if you go back to the 1872 Act that legislated against Gaelic, we argue that the omission of Gaelic and BBC Alba from the Media Bill is legislating against us as well, because there will be a lack of prominence and discoverability. As we move from linear television on to digital, it will become more and more difficult to find Gaelic content. The kids who are going through education at the moment will be looking for professional jobs. The BBC and MG Alba give them these jobs now but if the budgets are slashed, if discoverability becomes a huge issue, slowly in the digital age this ancient language, Gaelic, becomes irrelevant and that will probably lead to the death of the language. I don't think I am being overdramatic in that because to survive in the digital age you have to be available, you need to be consumable and you need to be relevant for young people.

Q99 Chair: John, what amount of language content, in your case Gaelic, do you think would be sufficient to stop this happening?

John Morrison: The BBC has been a friend of Gaelic for 100 years and we have a partnership with the BBC where at the moment there is new content of 1.7 hours a day, which means that 24% of what is available content-wise on BBC Alba across the year is new. When new content goes on we can see a definite spike in numbers. It is obvious and a lot of that 24% will be news and sport. For example, we will only manage to do three hours of new scripted drama in the next year. I don't want to be envious here but S4C has up to a couple of hundred hours. This is a huge difference for us. When we put a new drama on there is a massive spike in the audience and the same happens on the iPlayer as people catch up with it. I think that 24% is definitely insufficient and we would be looking for at least 50% that is new, otherwise you are using up the BBC archive to no useful end apart from filling hours of television.

Chair: Thank you very much. I will move on to our champion of the



Welsh language now, Kevin.

Q100 **Kevin Brennan:** Good morning, everyone. Pursuing that a little bit further, John, on BBC Alba, can you explain to the Committee what the draft Media Bill means to you as a channel and what changes you would like to see?

John Morrison: We would like to see three changes. We would like to see parity of esteem with Wales so that BBC Alba is mentioned and that there is a clause saying, "There shall be a Gaelic channel"—you don't need the name of it. Also sufficient quality, and I think we need at least 50% of new material. We are disappointed about fairness and parity. Why does one Celtic language get mentioned and support from Government and we are left out?

The other side of that, immediately linked to it, is budget. I became Chair of MG Alba in January this year and while preparing for my interview I did my due diligence as far as I could from the outside. When I went inside and lifted the bonnet I was quite shocked to find that by 2026 we will be down to 50%—half the budget that the channel started with—and that is clearly unsustainable. We were talking earlier about moving from linear to digital. If we don't have the budget to move us to digital, create the content for digital, and make sure, with our friends from the BBC, that we are prominent and available, we have a very serious issue.

Q101 **Kevin Brennan:** Have the Government explained to you why you are being treated as second-class citizens?

John Morrison: They have not really explained it. We have been told it is complicated, but for us it is quite simple: it is about parity of esteem and parity of fairness.

Q102 **Kevin Brennan:** Depending on which figures you go to, I think it is 18.7% in the census or 29% in ONS who are Welsh speakers in Wales, but the figures for Gaelic are 1% or somewhere around there. Have they tried to use the argument that that is why they are not giving you the same level?

John Morrison: I refer you back to my previous answer about the history of Gaelic, where it has been legislated against. We argue that the same numbers are a very strong argument for supporting the language, otherwise we lose it. When you drive through Scotland, every hill, every glen and every river has a Gaelic name. Is Scotland going to be better without that?

Kevin Brennan: Some of them are Welsh names actually.

John Morrison: Yes, they are and some Norwegian has an influence as well. For us, the key point here is that from the beginning of this channel we have opened the door to viewers. There are roughly 70,000 Gaelic speakers who use the language every day and there are 90,000 who have a working knowledge of it. We are getting audiences of 300,000



every week watching. Through subtitles we have opened the doors and people are consuming the language through the sport, the culture and particularly the music, but also drama is important to us, which is why it is disappointing that we will be able to do only three hours next year.

Q103 **Kevin Brennan:** I watched the rugby on BBC Alba and enjoyed the coverage. The Committee might not be aware, since we have had a lecture on history this morning, that one of the oldest poems in the Welsh language, “Y Gododdin”, describes a battle in north Yorkshire fought by Welsh-speaking warriors from the south of Scotland. That is another bit of our history that perhaps you are unaware of.

Croeso, Elin.

Elin Morris: Diolch.

Kevin Brennan: How will the shift from proportion-based quotas to absolute ones change the way you fulfil your public service remit?

Elin Morris: The main impact of the change is that we can then deliver the remit across platforms, so we will not be just measuring on linear but also on on-demand services. That is important to enable us to keep on growing our digital offering without having to keep looking over our shoulder to make sure we are delivering quota just on linear. I think that will help us to drive forward our digital ambitions, which is crucial. Technically it is harder to measure the number of hours in the digital space, so it has been changed from a proportion to a specific number, which I think works as long as it is a similar target to what we have at the moment but translated into the cross-platform space.

Q104 **Kevin Brennan:** Can you explain for us what the issue is with the requirement for on-demand content to be available for 30 days under the draft Bill? Why is that problematic and what is the appropriate number of days in your view?

Elin Morris: We always try to get more than 30 days but we can't always secure those rights. An example is sometimes sports are only available for a shorter window. We get news content from the BBC but that is only available for 24 hours on demand because it needs to be current to be accurate, so it is only a short window, I think in line with BBC policy as well, even though it is clearly PSB-type content. It feels anomalous that content that is PSB in character can't be counted as PSB content under the wording of the Act because of the 30-day minimum threshold.

Q105 **Kevin Brennan:** Clare, do you have anything to add to that?

Clare Sumner: I am not quite sure what the objective of this part of the Bill is because if we remember—sorry, it is turning into a history lesson all round, isn't it—in 2007 BBC iPlayer launched seven-day catch-up. Then until fairly recently we could offer coverage for only 30 days, which drove the audiences mad because you wanted to start “Happy Valley” at the beginning and you were starting at episode 4 and that was not



HOUSE OF COMMONS

popular. Here again I think that in particular there is public value content in news, there is sport and music, as you well know, Kevin, where the rights issues are quite complicated or the currency. I don't understand what the objective is.

As ever, we are closely governed by Ofcom over the iPlayer, who have had to approve all of these changes of longevity. For the BBC, I want to be exempt from this clause because I don't think it is particularly helpful and all of our content is public service content anyway, which is a different model to some of the others, but even for the other PSBs, I can't see what this is getting at. In a competitive marketplace where public value is so important, why go to something like "Match of the Day"—seven days, 3 million viewers? So I don't quite get it.

Q106 **Kevin Brennan:** Would an appropriate change in your view be just simply to exempt public service broadcasters from this proposal?

Clare Sumner: I think that is probably right, yes, or be clear about the problem you are trying to solve. I don't quite get the problem we are trying to solve.

Q107 **Kevin Brennan:** Elin, back to you. Has the Bill sufficiently simplified the process by which S4C can get Government approval for its commercial activities? Can you tell us what they are as well?

Elin Morris: Yes. At the moment, for certain types of commercial activity we need to get Secretary of State approval in the form of an order, which is actually a statutory instrument that has to be approved by both Houses of Parliament. It is a cumbersome process, especially for a commercial activity that normally needs to be dealt with fairly quickly. The new approval system is that we get Secretary of State approval in writing without having to go through the process of getting a statutory instrument, so it is a lot simpler.

Q108 **Kevin Brennan:** What sort of things are we talking about with these commercial activities?

Elin Morris: We need to get approval of the Secretary of State when the new framework is ready to seek approval. We have a new commercial strategy, so the plan is to have some funds to invest commercially in content. If we are creating Welsh language content, we are going to see ways of making it sell internationally, so we need commercial money to do that, or potentially invest in Welsh companies that have potential to grow in the sector in which we operate, so it may be investment funding for them. Those are the kind of things we have in mind at the moment.

Q109 **Kevin Brennan:** Recently you have had some success in getting Welsh language drama content—we were talking about Gaelic drama earlier—on to Netflix and platforms like that. Can you tell us what this new world means for the potential for minority language drama and so on?



HOUSE OF COMMONS

Elin Morris: Yes, it is exciting that audiences around the world are now more comfortable viewing foreign language content with subtitles.

Q110 **Kevin Brennan:** Tell us about the programme that we are talking about here.

Elin Morris: “Dal y Mellt” is a six-part drama, a heist, filmed in different parts of Wales in Welsh language. I don’t know if you have viewed it but I enjoyed it as a good heist crime series. It was sold to Netflix. Obviously they are happy to provide it in Welsh language with subtitles. We have seen years of this being done with the Nordic noir series and people willing to watch it with subtitles. I hope that this will set a precedent and it would be great if we could find more series like that that we want to put on streaming platforms. We have talked about prominence. It is good also to have opportunities to work with those streaming platforms to increase the exposure of Welsh language content. There are audiences who prefer to watch their drama on the streamers, so we want to reach them where they are as well as on our own player.

Kevin Brennan: Well done for securing the rights for Welsh international qualification football coverage next year, although they are probably worth a little less after this week’s two results. Back to you, Chair.

Q111 **Chair:** Thank you very much. I am looking to watching the Welsh equivalent to “Squid Game”. It sounds very interesting. That concludes our formal questions. I will ask each of you if there are any concerns that you think the Committee should be aware of when it comes to the challenges or the opportunities posed by the draft Bill as it stands.

Clare Sumner: The only thing we have not covered, which I know you covered in depth with the others, is listed events where particularly the two issues around the streaming loophole and digital clips are really important to us. In the interests of time, we think both of those should be dealt with on the face of this Bill. We have, like ITV, suggestions about how we could deal with that in a fairly straightforward manner to close the streams loophole. On digital clips, the reality is that we already saw this in Tokyo, particularly when there were overnight events. If you remember, I think it was Charlotte Worthington who won a BMX gold medal, which was perhaps a new sport to many of us. About half a million people watched that live because they stayed up overnight and 3.4 million people caught up with it on clips.

I will make the same point I said earlier, which is that we are already operating in this world and this Bill offers some real improvements on listed events. We don’t think it is that complicated. We are reluctant that these things are just pushed away because then to a certain extent, if we look at the speed of these Bills, we have to wait another 20 years and I don’t think any of us wants to do that. May I write to the Committee because we have some detailed points on that?

Q112 **Chair:** We are also aware that there is a loophole in the draft Bill that



HOUSE OF COMMONS

could allow unregulated streaming services to buy the rights for a listed event. What would need to change in the draft Bill to potentially close that loophole down?

Clare Sumner: Looking at the detail, I think it is something around making sure that those are designated so that potentially it is not just something that is streaming or not as a channel. I think we can define streamers in a way that would bring them under the same regulatory framework as everybody else, so that loophole would be controlled. In the way we have today where some operators have to go to Ofcom to get approval, the same would apply to the streamers.

Q113 **Chair:** Does anyone else have anything that we didn't cover—challenges or opportunities in the draft Bill as it currently stands?

John Morrison: From our point of view, we really stress the requirement for parity and we underline fairness as well—that Gaelic and Gaelic broadcasting is mentioned. Also that we are given an appropriate level of budget. We are not looking for any sort of handout here because MG Alba has already, in its existence, created something in the order of 340 jobs. A lot of these jobs are in economically deprived areas or places that are more in the balance, so we argue that we are making a huge economic contribution. If we had what we say is a better financial settlement, we would be able to make more jobs. It is critical for the future of the language in the digital age because we need to move to digital. We have a policy of trying to move to digital first to be with the audience and we need to find the money to do that.

Elin Morris: We welcome the Bill. The key priority for us is to see it being presented to Parliament and being passed. Without it, there are huge risks for us in people being able to find our content and to view it at all. Our main request is for the Bill to be presented and passed.

Q114 **John Nicolson:** I want to come back and ask you in particular about the whole issue of sufficient quantity. A theme of the draft Bill is to change the approach to remits, isn't it? I notice there is a phrasing that there will be a requirement for "a sufficient quantity of minority language content". That is quite an opaque phrase, isn't it? What does sufficient quantity mean? Is it a percentage based on the population, which would be very bad news for Gaelic obviously, or does it take into account the importance of Gaelic as one of three national languages in Scotland that should be treated equally out of fairness?

John Morrison: Fairness is an important word for us. I will come to how many hours we think is sufficient. For example, we have launched a new learning programme, which is getting hundreds of thousands of viewers and this is drawing in potentially new speakers of the language. Duolingo had a huge amount of publicity for launching Gaelic, which is brilliant. We have more followers than Duolingo now, which is significant from the BBC's and MG Alba's point of view. We are sitting at about 1.7 new hours per day at the moment. We would like to get that back to what was



promised—at least three. When MG and BBC came together the aspiration, maybe more than a promise, was three hours of new content every day. We are down at 24% of new content over the year. That is not good enough to retain any sort of audience and also it is not going to work as we move into the digital age.

Q115 **John Nicolson:** To answer my question in a nutshell, is the phrase “sufficient quantity” based on population, or the cultural significance of the language historically and as one of three national languages?

John Morrison: I think it has to be the cultural significance of the language and it has to be based on what we are doing in attracting viewers. If we are going to set a bar, we will not be arguing for a bar that is set at where we are now in content. It will need to be much higher and based around the audience we attract. We subtitle all our programmes to draw in the people who are interested in traditional music that is being redefined and recreated for the modern audience. We want to have drama. We would love to go for it but three hours is insufficient. If we do that in a box set, you will watch it in an evening, so we want to be way above that. It is difficult to put a figure on it.

Q116 **John Nicolson:** I remind people watching at home and also remind this Committee that a previous Culture, Media and Sport Committee recommended in a report that Gaelic be given the same level of funding in percentage terms as S4C gets. It was widely welcomed across all political parties and in the sector. I notice that it has not happened and perhaps it is time for us to reheat that particular promise. Can you tell us what effect parity with S4C would mean for the Gaelic language? What are these guys getting that you are not getting?

John Morrison: They are in law. They get the confidence they get from law. They get hundreds of hours more content and they get a lot more money than we do. That builds up confidence in the language, it builds up confidence in young people and it gives us a platform that we can use for taking the language on. You need to be broadcasting, you need to be interesting, you need to be exciting and you need to be teaching people things. We can do all these and we are doing them all. We are winning awards—amazingly winning awards with the low budget we have—but we could do so much more. So, parity with Welsh.

Gaelic has always enjoyed strong political support and very good public support. Our audience appreciation rates are 8 out of 10 despite the fact that the number of viewers is declining because they are moving off linear to digital and we can't be found on digital. This Bill is critically important for the future of the Gaelic language and for broadcasting, so parity would be wonderful.

Going back, I don't need to remind you that it was started by the Conservatives. The first Gaelic Act was Labour-Lib Dem and the SNP has been strong supporters of the language and broadcasting. Parity feels like fairness to us.



Q117 **John Nicolson:** Given that, why does Gaelic attract so much hostility from strange people? You can see where I am coming from with the way I am phrasing the question. It is not exactly an open question. I sometimes go on Twitter, which as we all know represents the real world, and people are literally having a meltdown because police cars in Scotland now have “police” in Gaelic as well as English and they demand to know how much that extra paint costs. They won’t be worried about the cost of Trident but they will be worried very much about the cost of those extra few brushstrokes. Why do these folks get their knickers in such a twist about Gaelic?

John Morrison: The simple answer is I don’t understand it. I don’t understand where the anger comes from because this is offering the nation another platform for watching sport and culture. Hundreds of thousands of people are doing it. The most bizarre thing is Gaelic road signs, as well as the police cars. If you look at Gaelic place names they were originally Gaelic or Norse and they were anglicised following the Jacobite rebellion or rising, whichever way—

Q118 **John Nicolson:** We are forced to look at bad spelling on every road sign you pass.

John Morrison: It is all anglicisation of—

John Nicolson: It doesn’t make any sense because those words obviously mean something to a Gaelic speaker. I remember there was a hotelier on the Isle of Harris who, when road signs were put into Gaelic, thought that tourists would get lost on a small island with a single circular road and they would get confused because Stornoway and Tarbert were translated into Steòrnabhadh and An Tairbeart—forgive my pronunciation. He thought that people who could crisscross all of Europe in multi languages as tourists would get thrown by that and he planted the old English language road signs in his garden to help stray tourists. This strange world of anti-Gaelic obsession is very hard to fathom.

John Morrison: It is bizarre. Fortunately the English signs he planted didn’t grow. We now have Gaelic signs in the Western Isles. We have bilingual signs in different parts. You used the word, Elin. It is the normalisation of a language. That is what we need to happen more and more. There are the benefits of broadcasting in the economy and education. The kids who are going through bilingual education tend to perform better. They learn a third and a fourth language more readily. What is not to like about that?

Chair: Now I feel terrible that I have not learned to say thank you to all of you in Gaelic and Welsh, as well as in English, but thank you, Clare, thank you, John, thank you, Elin, for your time today. If there is anything further that you think of after this session please don’t hesitate to drop us a note. We will suspend briefly while we set up for our second panel. Thanks very much to all of you.



Examination of witnesses

Witnesses: Paul Oldfield, Matt Payton and Martin Steers.

Q119 **Chair:** We now come to our second panel, which focuses on the radio provision in the Bill. We are joined by Paul Oldfield, who is the Controller of Policy at the BBC, Matt Payton, who is the Chief Executive at Radiocentre, and Martin Steers, the co-founder of UK Community Radio Network. You are all very welcome. I will come first to Simon.

Simon Jupp: To explain a declaration of interest, I am occasionally a volunteer presenter on my local commercial radio station, Radio Exe.

Max, I will come to you first. The Media Bill sets out a number of changes to local radio regulation. What reassurance can you give us that the Bill's narrowing of local duties as set out in the Bill will not result in fewer opportunities, for example for local bands, fewer new presenters to be trained up, and fewer reporters and roles that currently exist within local radio?

Matt Payton: Thanks for that, Simon, and thank you to you and the Committee for your support for inclusion of radio within the Media Bill. We know that was not a given, so we really appreciate your support and that of your colleagues from across Parliament to ensure that these clauses are included. We think it is important for the future viability of radio— commercial, BBC and community.

On the specific clauses and the changes that are proposed around the provision of local commercial radio, you have to put these in the context of the change that has happened in commercial radio over the last 10 to 15 years. It has been at a time of unprecedented change and competition from music streaming and podcasts and other types of audio. Commercial radio has had to evolve and increasingly it has been offering more national brands or spin-off stations and brand extension services, which have been really popular with audiences. The changes in the Bill are the last phase of the changes in those regulations.

The focus of the regulations will be principally on the output of the stations, the local news, information, the important local elements that audiences value, rather than the inputs. They will sweep away some of the decades-old rules around format and local production quotas, but there will be an absolutely clear focus from the regulator and in the legislation on the continuance of local news, information and content for audiences.

I think that there will also be a mixed ecology in commercial radio. That will continue to be the case. As I say, we will have national brands that will retain local news and information content but we will also have local regional stations that will continue to be based in the community, supporting bands, presenters and providing that content as part of a



HOUSE OF COMMONS

mixture of public service, community, ultra local content and commercial, which straddles the two.

Q120 Simon Jupp: I guess the point I am making is that there is no incentive now for a commercial radio station to provide, for example, specialist music programming or other local content that you would not expect to hear necessarily on commercial radio any more. I remember a local radio station I used to listen to had a play every Friday evening. You never hear that any more and, for an example, an unsigned programme where local artists appear and play local music. Do you think that there is less space for those sorts of programmes on commercial radio? Would you encourage your members to continue to provide them if they do?

Matt Payton: I think what has changed as part of this transition in commercial radio over the last 10 or 15 years is that there is no longer a finite number of stations with access to a scarce amount of spectrum providing a full service radio station, as you referred to, that used to exist in the 1970s and 1980s. That was at a time when there was not all of this competition, when the advertising model was very different, there was no online advertising to compete with, no digital services to compete with and consumer habits were somewhat different. I think that has enabled services and broadcasters to provide a broader range of different kinds of services on different platforms. On the example you gave of specialist music, for a service like Jazz FM, there is no regulation or legislation that compels the operator of that station, Bauer Media, to provide that service but it is a service that it chooses to provide as part of a suite of stations. Similarly, Scala Radio provides a range of classical and other types of music.

In answer to your question, that range of content is there. Is it always on the same local radio station in the same way as it was another time? Probably not. The model has changed and the role.

Simon Jupp: I will also mention Smooth Country.

Matt Payton: Yes, of course, Smooth Country, one of your favourites.

Q121 Simon Jupp: What does locally-gathered news mean to you?

Matt Payton: Currently, under the Ofcom local news guidelines, there is a requirement to have an appropriate level of journalistic cover in each licensed area. Those licensed areas are the old FM areas and they are quite small and so there should always be a journalist who can cover stories and gather stories in those areas. In short, that is what is being provided at the moment and that will continue to be provided in the future.

Q122 Simon Jupp: I remember when I was joining a radio station that was just about to launch that there was a floor plan for the radio station, an office space. They put the sales team over, the presenters over there and the outside events team in the corner, and then they realised they did not have anywhere for the news team to sit. Sometimes it feels that local



news is not really a priority in commercial radio stations. Is that a feeling that you share?

Matt Payton: I challenge that because I think the investment that commercial radio makes in news is serious and considerable. There are hundreds of journalists across the country, based in broadcast centres and out in the patch, gathering stories every week, generating 10,000 bespoke news bulletins across local and national stations, the vast majority of those carrying local news.

A week ago there was the terrible incident that happened in Nottingham. Anybody who listened to the coverage on Gem Radio in the East Midlands or Capital in the Midlands would have heard the reports that they were providing. Local reporters were providing reports from the scene to LBC. That content, done in a different way from how the BBC or BBC local radio or perhaps community radio would do it, you hear all the time, and you will hear it in your own constituency with reporters, whether it is the Devon County Show or a court incident or something else.

I think that there absolutely remains a commitment to local news and information and that will continue. The good thing about the Media Bill, going back to the Bill specifically, is that it looks to enshrine that in legislation for the future. It locks in the commitment to news and information, which is really important, but it provides greater flexibility in how the rest of the content is delivered.

Q123 **Simon Jupp:** I agree with you. The coverage to provide major news stories is fantastic across the BBC and commercial radio, but that can sometimes be very different to what happens day to day. For example, is a one-minute news bulletin where the word "Devon" is shoved into a generic national story a local news bulletin? I would argue it is not.

Matt Payton: I have some sympathy with that. Trying to regionalise a national story should not and does not contribute to your local news output, so I have some sympathy with that, yes.

Q124 **Simon Jupp:** We have seen national broadcasters—let's use Ken Bruce as an example—joining a major network in the last couple of months—big presenters. Never big news presenters though; never big newsreaders tend to join commercial radio stations. Do you think that shows that they are valued less?

Matt Payton: No. As part of the evolution over the last 10 or 15 years, commercial radio has been able to provide more coherent national brands and networks. That has enabled commercial radio, through the changes in the regulation—which again the Media Bill completes—to offer bigger names and bigger shows, whether it is Heart Breakfast with Amanda Holden and Jamie Theakston, or Ken Bruce on Greatest Hits. Those are shows you could not really get in a coherent national way across commercial radio previously, but commercial radio, as part of its model, because of the regulation and the commitment to news, also provides multiple local news bulletins or inserts.



On Greatest Hits Radio, for example, there might be 60 different areas, and do not quote me on the number because I would have to provide you with the specific details, but multiple news bulletins for the different licensed areas with the local news stories. As a result, you need multiple newsreaders to be able to record those bulletins, gather the news, provide them and then the technology to insert those bulletins. That is very different to Radio 2 where you have a single newsreader who might cover Radio 2 and Radio 6 Music or another BBC station. There is a slight difference in approach and that does sound different, but that probably gives commercial radio a bit of a competitive edge because you are providing the best of a national show as well as local news and information.

Q125 Simon Jupp: I will move on to Martin to discuss and slightly change tack. Talking about community radio, we have seen in the last couple of months the huge changes going on to BBC local radio, a reduction in local programming, and we have also seen through the Media Bill some of the local radio regulation for commercial radio being watered down. Does that strengthen community radio's hand and the ability to nab audiences that still want to hear local information, local presenters and local content?

Martin Steers: It certainly provides us a big opportunity if community radio has the resources, the funding and the people involved to grasp the opportunities. We gave evidence last year on journalism and how problematic it can be for community radio to resource it. There is certainly a thirst and a hunger in community radio to provide local information, local news and local coverage. If FM licences had more power, better coverage and could strengthen the business case for community radio, it provides an opportunity for us.

Q126 Simon Jupp: Do you think that the weakening of regulations for commercial radio also gives the opportunity for community radio presenters to flourish in community radio and then hopefully get on to a paid gig somewhere? I am thinking about when I started out in the industry. I got my first commercial radio programme aged 17, and I sounded awful, by the way. I would not be able to get that break now on a local commercial radio station because that local radio station, and in fact loads that I worked for—this is unconnected to me—have all closed down. It is genuinely not my fault. Do you think that community radio now is the training ground for the next generation of presenters? How will we get our next Ken Bruce, Simon Mayo or Jamie Theakston?

Martin Steers: The nature of the growth of individuals involved in radio has changed and community radio is a great testing ground for people to develop their skills and find their passion for radio. They might come in wanting to do presentation and then end up wanting to do news. We have seen lots of people in community radio who started out there and then a few years later have gone on to work for commercial or the BBC. Will there be the variety of those roles available in the future with the



changes in those areas? It is certainly a good test bed and a good opportunity for people who want to get into radio.

Also, that is not to mention the hundreds, if not thousands, of volunteers who get involved in community radio because they are passionate for their area. It may not be something they want to pursue as a career, but something they want to do to provide local information, local programming or be a local presenter in their area. We look forward in community radio to hopefully some people who are retiring out of commercial and the BBC who might want to continue to give back and serve their local audiences and community radio will hopefully be that opportunity for them.

Q127 **Simon Jupp:** Play the songs they like rather than the ones they are tasked to do. I agree. I want to move on to voice-activated selection services, which sounds incredibly exciting. Nearly 90% of the population listen to the radio every week and commercial radio revenue is apparently at its highest ever level. Why are radio selection service protections needed? Paul, I will come to you first. I have not spoken to you yet.

Paul Oldfield: To echo what Matt said at the outset, overall we welcome this Bill and we are grateful for the inclusion of the audio provisions and for members of this Committee for arguing for them. We think that there are things in this Bill where the Government could go further, and we may come on to talk about those. We are positive about the measures that are included in the Bill and we hope we can improve and amend them as we go.

On the need for regulation of radio selection services I think what we are all seeing is a change in user behaviour among people who are listening to radio and audio services. There has been an increase of 40% of the people who are listening to audio services via smart speakers and a 40% increase in the number of hours that are listened to via those devices. The trend is clear. People are increasingly using smart speakers to access the audio content that they want to listen to. We have seen delivery of radio via IP increasing, and that is now at a quarter of listenership. The move to digital is happening. That is why we think it is so important in the Bill that that new way of listening and the powerful international gatekeepers that exert the control of how people receive those services—the regulation of that and ensuring that our services and the services of community radio and commercial radio colleagues are easily found on those devices. I think we are all seeing that shift in behaviour and that is why it is so important that we regulate it and make sure that our content can be easily found.

Q128 **Simon Jupp:** Matt, do you agree?

Matt Payton: Absolutely. As Paul says, we are all seeing the shift in consumer behaviour, and it is accelerating. Online listening, as Paul says, is around a quarter. That has doubled in the last four years or so and that



HOUSE OF COMMONS

has coincided with the emergence and penetration of smart speakers such as the Amazon Alexa and Google Nest devices. That provides opportunities for radio audiences. Make no bones about it, radio is one of the most common use cases on these devices, so there are opportunities there for us to reach audiences and provide new services, but there are also significant risks.

The pace of this change means that there is a regulatory gap here. We are increasingly dependent on these platforms for our distribution and there is a risk already, and emerging risks and certainly risks in the future, that that digital gatekeeper position that will be held by the platforms could lead to them exploiting their significant market power in this market: pointing audiences to their own radio-like services, limiting free access to radio or, in our case, inserting their own advertising messages over our content. That potentially jeopardises the long-term viability of radio and the value and trusted content that it provides for audiences. That is why we think it is so important that radio remains findable and accessible.

Q129 Simon Jupp: As we are on my pet subject, I forgot to hand back to the Chair, because John Nicolson wanted to come in after my last question. I will do that and apologise to John profusely. Do you want me to continue? I have not bored you all yet. Brilliant. Do you have any concerns that these provisions will deter new entrants or cause global brands to leave the UK market? Is there any concern among you about that? I will come to Matt first.

Matt Payton: No. I think there is not a lot to worry about here for platforms and others. I think it is potentially a win-win for the platforms, for radio content providers and for audiences. I have seen some of the other submissions that you received in this space, and I do not think there is anything there that particularly makes me think that these provisions should not be supported and put through.

Q130 Simon Jupp: Martin, for community radio do you think there is good provision in the Bill? Do you think it is going to be helpful for community radio stations?

Martin Steers: I think it is going to be incredibly helpful and I am grateful that we have been invited here to give evidence about community radio, which does not often get an opportunity to raise its voice. For us, some of the protections in this Bill are welcomed. We have lots of anecdotal evidence of stations that are struggling to engage with the smart speakers, because they are small, independent community stations, to have a conversation about how they even get on the platforms or how they make sure that by asking for their station they get played and not another station. Some of the provisions in here are incredibly useful for community radio and small, independent Ofcom-licensed stations.

Q131 Simon Jupp: Do you agree with that?



Paul Oldfield: I do, and I think these measures are proportionate. There is a particular bit that is worth pointing out, which is analogous to the TV regime that I know you heard about in a previous session. There is a threshold for a number of users of these services that will then qualify to be regulated by Ofcom. We are talking about those services, those platforms, that are used by a significant number of people. We have been very supportive of that proportionate approach so that we are capturing the big guys but not the small entrants. I think that the Bill gets that balance right and we think it is a proportionate way forward.

Q132 **Simon Jupp:** Understood. I want to ask about the Bill's definition of an internet radio service, because we have heard some concerns about that. Matt, you are shaking your head there in agreement. What are the concerns from the industry about the definition of an internet radio service?

Matt Payton: Broadly I can understand where the Government are coming from. They have tried to identify effectively Ofcom-licensed radio stations, whether they are commercial, BBC or community. There is a little bit of drafting we still need to work on about how commercial radio stations are described. There is a description there about all the content online having to be simulcast all the time in exactly the same way, which does not account for the online advertising model where there might be different advertising. That is a drafting point, which I think we can probably address with DCMS.

The other point is about future-proofing and about future-proofing content provided by Ofcom-licensed broadcasters that is not their linear radio station, so their on-demand content or catch-up content or podcasts, which are provided on platforms such as Global Player or BBC Sounds, would not be captured and protected and supported and automatically accessible on these devices in future. We think that could be an issue. It would mean, for example, you would be able to get the LBC breakfast show with Nick Ferrari, but you would not be able to get, guaranteed, "The News Agents" podcast for example. It would not be guaranteed by the regulations. That is not to say there will not be arrangements in place to ensure that that content is accessible, but we are not sure that in the longer term that will be future-proofed.

There are measures—there are powers—in the Bill for the Secretary of State to look again at that definition, which goes some way to perhaps addressing that concern, but I think colleagues also have similar concerns about it, not being quite future-proofed into a growing area of online and connected audio.

Q133 **Simon Jupp:** Martin, if I can come to you, obviously we know that some community radio stations start out online before managing to secure either an FM licence or they are going on small scale DAB nowadays. Is there any concern from your sector?



Martin Steers: The only concern we have is if there was any change in the nature of it being Ofcom-regulated. We are a big supporter of that because we find that the nature of unlicensed internet radio can completely vary. I have run similar to what you are saying. One of the stations I run is an internet-only station waiting for our local ssDAB maps to launch or a possible FM licence in the future. While we operate to an Ofcom code, and we operate to best industry practice, that is not the case across internet stations. We have seen internet station start-ups in some areas cause issues with licensed stations particularly in going after their advertisers promising big, unjustifiable listener numbers or unregistered or unvalidated numbers for cheaper advertising. Safeguarding space for Ofcom-licensed, particularly all community radio stations that are licensed, is welcome and something that we passionately defend.

Q134 **Simon Jupp:** We know that radio stations lie about their audience. Paul, any concerns from you?

Paul Oldfield: I think there is consensus across the board on this. We think that there is a way through to address some of the things that we want and some of the concerns that Martin has expressed. We think it is important that on-demand content should be covered in this Bill. I find it strange that that is the focus of the Bill on the TV side but completely absent on the audio side. It is important that should extend to on-demand content.

On the point about simulcast, we also find it strange that you are explicitly ruling out internet-only radio stations and that a Bill in this day and age specifically precludes that. Our version of this is we have suggested that you could link to services provided by Ofcom-regulated stations. If you are providing an internet-only station or you are providing on-demand content but you are regulated by Ofcom, you could come in scope of an expanded regime. That is how we think we square the circle on that.

Q135 **John Nicolson:** Can I ask the panel about the narrowing and local duties? I know that Mr Jupp has covered a lot of that. I am quite interested in the extent to which there will be fewer opportunities for musicians, for example. At the moment local bands can get a fair amount of coverage. If this definition is narrowed, what effect do you think that will have on the ability of musicians, especially those starting out, to get a break? Mr Oldfield, to begin.

Paul Oldfield: Probably the first thing to say in direct answer to your question is the provisions in the Bill that talk about deregulatory measures apply to commercial radio and not to the BBC. There is nothing in the specific deregulatory measures and how they relate to local radio that will affect the BBC. As the Committee will know, our regulation is done separately and the requirements that are placed on the BBC derive from Ofcom and our operating licence. There is nothing in this Bill that



would affect the BBC in that way and would change the nature of our services.

Matt Payton: The first thing is that there are now more broadcast radio stations than there has ever been in the UK, including community, the range of regulated commercial stations and indeed small-scale DAB stations and other DAB stations. We have never had a broader range of offering and choice available in broadcast radio.

I take your point about commercial radio. With the change in model in the last 10 or 15 years to a more coherent national brand focus, there has been a change, but there are the opportunities, and to Mr Jupp's point earlier, for presenters, musicians, and so on. If you think about the audio that is available now, broadcast, internet radio stations, podcasts, the range of audio is greater than it has ever been. That is part of the reason why a change in some of the regulations to focus more on the output is justified.

There will be opportunities. It will be slightly different, because it is not the case where there is scarce spectrum and only a handful of commercial licences plus BBC's national services, as it was in the old world. There are more opportunities out there. The profile of those stations has changed, but I am confident that talent and cream rises to the top.

Q136 **John Nicolson:** In these Committee sessions we should always declare interest, and I forgot to do that. I am a former presenter of "The Week in Westminster" on the BBC and had my own show on LBC and also for several years talkRADIO. I know that seems unlikely but none the less there I was.

How central is local news? We heard an example the other week of an important breaking story—I forget which one it was; something to do with Boris Johnson, I suspect—where because the news had been prerecorded the station went ahead, missing this mammoth story. That is the danger of cutting back on local news provision.

Matt Payton: I am sorry, but I am not aware of the specific example.

John Nicolson: Prerecordings in general always run that danger.

Matt Payton: I accept that, absolutely. That is why the resource and the investment required to deliver the commitments, the focus on local news and information output, is absolutely crucial. When we ask listeners, and when Ofcom has asked listeners, what the element of local content they value the most is it is the local news, the information. The requirement under the current guidelines, which will be continued, is regularly refreshed local news, not prerecorded, throughout the day. Hopefully that goes some way to assuaging those concerns and stamping out any potential issues such as the one you have identified.

Q137 **Clive Efford:** Is the definition of radio selection services sufficiently clear



in the Bill?

Paul Oldfield: If I could take that first, I think it is sufficiently clear for what the Government are currently trying to cover. This is aimed at smart speakers and the way that you access radio services through smart speakers. We think that definition could be helpfully broadened and the thing that we think in particular the radio selection services should cover is those kinds of platforms and interfaces that people access radio in-car. I think everyone will know that the car is such an important environment for people to listen to our audio services. A quarter of listening takes place in the car, and not all those interfaces are governed and managed by voice activation, which is where the Bill focuses.

The Bill is clear about what it is covering, but from our perspective we think that can be broadened and in particular to car, given it is such an important environment for radio, for audio and for people discovering that content.

Q138 **Clive Efford:** Would you broaden the range to specify which devices?

Paul Oldfield: How the Bill works at the moment is it specifically focuses on voice-activated devices. We think that there is a simple amendment to expand that. Then you would lead in the same way as the Bill provides for now that Ofcom can specify precisely which interfaces and platforms are captured. At the moment we think the definition is too narrow, in that it exclusively focuses on voice-activated devices, and we think there is something to be done to ensure that in-car systems are captured by this piece of legislation.

Martin Steers: I think it might be a slight missed opportunity if you move away from smart speakers to significant aggregators of listings of radio services. We have anecdotal evidence of community radio stations struggling to engage to add new stations or to change their current details on those list aggregators. A lot of those significant aggregators also are the defaults into the current smart speakers. Maybe there is an opportunity to broaden it to consider significant radio listening aggregator services as well, and then it would be a catch-all of the aggregators that are powering the smart speakers often by default. The community radio stations may not necessarily have the ability to develop their own platforms, such as BBC Sounds or Global Player. Protecting smaller, independent stations and community stations, broadening out significant aggregators, may be beneficial.

Matt Payton: To add to that, I do not agree with Martin's approach to aggregators, because the Bill enables services to choose their default route. If TuneIn is not the platform you want to use, you do not have to use them. You can use Radioplayer, which is a low-cost industry-funded option, to find yourself on these devices. From our perspective, it is not necessary to extend the scope to cover aggregators, because that is covered off by this ability to choose your default option, and hopefully that will also help TuneIn up its game a bit as well.



HOUSE OF COMMONS

On the other aspect that Paul touched on regarding the scope extending to cover car interfaces, I absolutely agree. It is an important platform for radio. You see what is happening in that market with connective cars. We are no longer in the world of six preset buttons for your favourite radio stations. We are in a world of a car infotainment system that controls the whole car environment. Recent model Teslas do not even have a broadcast radio at all. You can stream it through their interface, but the findability of radio, the accessibility of radio, is starting to be challenged in the car quite seriously. I absolutely agree with extending the scope into that space.

Q139 **Kevin Brennan:** Interestingly, Paul, you were saying that you would like to see the Bill amended in this regard. I confess I have not checked in the written evidence, but between you all, if you agree on it, are you able to supply some suggested amendments to the Committee? If we are scrutinising draft legislation, in our report we might want to put forward some amendments if the Committee agrees they are a good idea. Could you do that for us?

Paul Oldfield: Absolutely. Commercial radio and ourselves have been poring over this Bill in detail. We have talked about this, and I think we have something that works for both of us. We would be very happy to.

Q140 **Kevin Brennan:** Those would be particularly powerful where you are on the same frequency in your thoughts on this.

We are talking about radio selection services and in the Bill the Secretary of State can only designate radio selection services that are used by a "significant" number of people. How do you read that or define that? Is that too vague? What are your views on that? I will start with Paul.

Paul Oldfield: As I think I said in answer to a previous discussion, we think the concept of this is quite a good one because it means that it ends up capturing the big players and, as Matt described, those people who exert their market power. At the heart of this Bill is ensuring that the people who wield significant market power do not act unfairly as gatekeepers to our content. We think the concept of that is right. Delegating the responsibility to define that to Ofcom feels like the right thing to do. As regulator with a view of the market it should be able to take a reasonable view about who is using which services and the number of people who are using them. It is mirrored on the TV side as well.

We have done a bit of work on this and looked at the TV and the radio side and the numbers of users. We think that this is a reasonable provision and Ofcom with their access to huge market data should be able to define that and consult with industry and we should be able to come to a reasonable conclusion.

Q141 **Kevin Brennan:** If you were working for Ofcom now and this provision was already in place, I think I can imagine the obvious cases of selection services that would be deemed significant—presumably the big smart



HOUSE OF COMMONS

speakers and so on. Could you give us a practical example now of a selection service that you think it would be appropriate not to deem insignificant but not to deem as significant, so that the Committee has some sort of idea about what we are talking about here?

Paul Oldfield: I do not know that I have a specific to hand of an emerging platform that has a smallish listenership. Matt or Martin might have a better idea than me.

Kevin Brennan: Matt is thinking, and Martin is shaking his head, for the record.

Paul Oldfield: I think the idea is to ensure that those people who are new entrants to the market do not get caught up in the regulation that should apply to the Googles and Amazons of this world.

Kevin Brennan: They might get caught up if they get big.

Paul Oldfield: If they get big, and that is the point, when they get big and can exert that market power and they provide a route for a large number of people to find our services, we think our services should be findable. For those people who are new entrants to the market, who are finding their way and developing their service, we think the Government's approach is right—that they should have a bit more flexibility to establish and grow their business. Maybe I could come back to the Committee if we can think of some of those new, emerging entrants.

Q142 **Kevin Brennan:** Matt, to pass over to you, if you have an answer to that question by all means tell us. With this business about significant use and so on, should that use refer to the number of people who use the device, those who use that device to listen to radio or to some other thing in defining it?

Matt Payton: On the first point about the significant users and the sort of services that will be designated under this regime, there is a pretty heavy hint in the Government's own announcement around the draft Media Bill when they talked about platforms such as Amazon Alexa and Google Home. We know that they are likely, because of the combination of people who use them and the people who use them for radio. My understanding is it will be primarily the people who are using these platforms to access radio.

Q143 **Kevin Brennan:** Are you happy with that term "significant" in the Bill?

Matt Payton: Yes. As Paul says, it is a difficult thing to prescribe in primary legislation and it is probably appropriate to ask Ofcom, with its expertise and background, to investigate that and make its recommendations to the Secretary of State.

Q144 **Kevin Brennan:** Matt, the Bill gives the broadcaster significant power. You mentioned TuneIn earlier on, and TechUK have also submitted evidence to us, arguing that the requirement for radio selection services



HOUSE OF COMMONS

to provide access to all licensed stations is similar to the “must carry” obligations on TV selection services, but that there is no corresponding “must offer” obligation on stations. Obviously, the BBC framework requires the BBC to do all that is reasonably practicable to ensure its audiences can access its services, but there is not a similar obligation on commercial radio. Should there be?

Matt Payton: No. This argument is a bit of a try-on, if I am honest. It is a starting point.

Q145 **Kevin Brennan:** Who is trying it on?

Matt Payton: From what I have read in some of the other submissions, it is a little bit of a ruse to try to undermine the aims and objectives of the Bill which as we said—

Q146 **Kevin Brennan:** That is quite a serious allegation. Who is trying to undermine the aims and objectives of the Bill in your view?

Matt Payton: You just mentioned the two other submissions that were aimed at undermining—

Q147 **Kevin Brennan:** I did not accuse them of that. You are saying that TuneIn and TechUK are trying to undermine the Bill?

Matt Payton: Yes.

Kevin Brennan: Okay. To be clear.

Matt Payton: To answer the specific substantive point on “must carry” and “must offer”, there is no “must carry” requirement in the Bill. The words “must carry for radio” do not appear anywhere in the Bill. Their starting point is fundamentally flawed and it is not accurate to represent what is being recommended here as that kind of change.

The framework for radio is quite different and what we are proposing is facilitating access to radio and doing that in a way that is free and widely available. To introduce a quid pro quo when there is not a “must carry” does not quite make sense to us. The whole purpose, as set out by the Secretary of State, of these changes in radio is to level the playing field. As Paul says, these platforms are digital gatekeepers with significant market power and could exploit that power, unless there is some change here. With the pace of change there is a regulatory gap that would enable and potentially incentivise them to act in that way.

We also believe forcing radio stations to provide their content across all platforms or all devices is an interference with our freedom to do business and with our intellectual property of our content. We are quite happy to provide further information to the Committee and write to the Committee with further detail of why we think that proposal is misconceived.

Q148 **Kevin Brennan:** Does anyone else want to add anything on that



HOUSE OF COMMONS

particular point? Can I finally go on to something that this Committee has taken an interest in? It occurs to me that while we are talking about radio, which perhaps we do not do enough of, although Simon puts us in our place when we do not—he has closed down more radio stations than most of us have hot dinners, as he revealed earlier.

Simon Jupp: Fake news.

Kevin Brennan: Can I ask about the definition of radio? In a way, I know we are talking about regulated radio here, but when we did our inquiry into streaming services and into the economics of music streaming, one of the things that was pointed out is that streaming services such as Spotify have a function they call “radio”. In fact, if you go on it and you look at my music on Spotify, you can find a thing called “Kevin Brennan Radio”. I have just discovered it now when I was looking at it earlier on. There is fascinating and very tasteful music that I recommend to you on it as well.

They do not have the obligations that you have on radio to pay, the technical term of equitable remuneration as it is known, a sum of money in music copyright to musicians, yet they still call some of their services “radio”. In their stated objectives at one of their worldwide management meetings they said that their objective is to replace radio in the longer term. What is your reflection on that observation, Matt? Do you think that perhaps there ought to be an obligation on streaming services to also pay a guaranteed, carved out, fixed sum of money that would trickle down into the pockets of poor musicians?

Matt Payton: The use of the term “radio” demonstrates to me the power of that term, even now. The death of radio has been prematurely announced on several occasions, but here we are with record audiences, record revenues, incredible value, trusted content for audiences. Some of the streaming platforms and digital players look at that, some of the brand equity that we have in the world of radio and indeed our stations, and they want a bit of that.

Q149 **Kevin Brennan:** They want it on the cheap?

Matt Payton: We certainly pay our music rights in full and do our best to work with our partners in the music industry. We value those relationships. I cannot speak for others.

Kevin Brennan: Given the amount of content that is on your services that is music, that is quite an opportunity.

Q150 **Chair:** I want to take you back to one of the other parts of the draft Bill that seems the most contentious, which is this default route mechanism. There seems to be a difference of opinion on whether this Bill could lead to hundreds of radio stations all stipulating a different default route for their stations to be delivered to listeners and whether this is seen as an excessive technological burden. Martin, I know you have had some thoughts on this.



Martin Steers: I think that the numbers that have been put out there do not reflect the current industry. None of these providers are currently complaining that they are having to deal with this. This Bill does not really expand the coverage of that. Of the numbers given within commercial radio, if Matt will not mind me saying, a large chunk of those stations will go through a couple of players. It is not individual stations; it is through brands. For community radio though it will be significantly important. We disagreed on the aggregator service, but because you pointed out that protection of choosing your own path will maybe circumvent the issues that community radio has with getting listed on aggregators, particularly TuneIn, which is the default. If community radio stations cannot pick their own path to broadcast with these selection services, it could mean that we would struggle to get there because TuneIn are not listing our station.

I do not think it is overly burdensome and I do not think anyone is having an issue with it at the moment from a technological point of view. I do not think it should cause any concern.

Q151 **Chair:** Matt, from your perspective, how many commercial stations do you think are likely to stipulate a preferred route for their stations to be delivered to listeners?

Matt Payton: I do not have a number in my head, but I can follow up. To Martin's point, the platforms are doing this already. The idea that this is some sort of incredible burden upon them is a bit fanciful. The TechUK submission, for example, says how this is all unrealistic and unreasonable, and then in the following paragraph it talks about how the Amazon Radio Skills Kit is a way of onboarding radio stations with ease. There is a bit of a contradiction there. It is like, "You can do it really easily" or, "It is really unreasonable and impossible to do". It does not quite add up to me.

To Martin's point, many of these licensed stations, the 600 that are quoted, will be provided through a single player, whether that is Global Player, Bauer's Rayo service, or indeed the BBC Sounds app. There is a cross-industry platform radio player that, for a relatively low cost, is able to provide a solution for everybody else, the long tail, the local regional and commercial stations, the community stations, and everyone else with an Ofcom licence. I do not recognise it as a burden or as something that would be particularly difficult to achieve, given that they are kind of already doing it.

Q152 **Chair:** TuneIn have argued that this is excessive and disproportionate. Do you disagree?

Matt Payton: Yes.

Q153 **Chair:** Paul, do you have any thoughts on it?

Paul Oldfield: I largely agree with what Matt and Martin have said, but in the case of the BBC this is almost always going to be Sounds. The



thing that is important about this provision is because it allows the flow of data back to the content creators, back to the radio stations, about who is listening to our services and how, so that we can better deliver services to them and understand who our audience is. We all know that data is such a key currency in the digital landscape, and it is what those platforms trade off, and having the ability to play out through our preferred service means that we then get that data to allow us to improve our services. That is why it is such an important provision that should remain in the Bill, and I agree, I do not think it is disproportionate.

Q154 **Chair:** What about legacy devices? TechUK want to see an exemption for devices that are already on the market, particularly those that are no longer supported by manufacturers. How do you think that the legislation should deal with those legacy devices?

Paul Oldfield: I have some sympathy with that point. You heard about it in your previous session as well on TV. I think there needs to be some flexibility in the regime to ensure that those old devices, either not supported by the technology company or where it would be disproportionately expensive for us to work with those companies to make, have access to our services in the way that we want. There should be some flexibility, but we come back to they must be devices in ways that significant numbers of people are accessing our content.

I have some sympathy with the point. I think that there should be some flexibility within the regime. We could look at it closely to ensure that that flexibility exists, but what we would not want is an excuse for the platforms to then manage to find a way out of their responsibilities, which we think are important in this Bill. I have some sympathy for a flexible approach on those legacy devices where this will prove difficult for us and the platforms to support our services.

Q155 **Chair:** Matt and Martin, you were both nodding furiously.

Matt Payton: Yes. I have not thought about it in great depth, but I think it seems to be more of an issue with the audiovisual devices, as you have heard from previous witnesses. Broadly I agree with Paul's point, and I think it should largely be addressed by the fact that this is about significant radio selection services.

Martin Steers: I think "significant" is the key and I cannot think under the current definition of a radio selection service of any legacy device that would fall foul of this. There need to be the measures in place so that a device potentially gets added by the Secretary of State but equally if that device then becomes legacy falls out of that designation. As long as those safeguards are there, I cannot see why that would be a problem.

Q156 **Chair:** As you all know, radio is one of the more recent additions to the draft Bill. Is there anything else that you think our Committee should take into consideration about the way that the draft Bill is worded that



HOUSE OF COMMONS

concerns you or think needs to be built upon that we have not covered today?

Matt Payton: Paul made a very important point about access to audience data collected by the platforms on the use of radio services. For all of us, that is important for understanding audience habits, and being able to ensure we provide the best possible service and curate that for them. For commercial radio that data is essential also for online advertising. Data is the fuel that drives online advertising and at the moment the platforms are gathering that data but not sharing it. We think that there should be provisions within the Bill that address that point.

Paul Oldfield: I have nothing to add, Chair. We welcome the Bill and these provisions, but the two key things for us, as I think you have heard from us, is on-demand content and extending to car systems. They are the things that we think would make this Bill future-proof and we should take the opportunity of a positive piece of legislation in front of us and extend in that way.

Martin Steers: For community radio, the only real involvement for us in the Bill is radio selection services. We made the point in our written submission that community radio is absent from the draft Media Bill and there has been talk of a revision of the community radio order or revision of community radio legislation. There has been talk of doing that for in excess of 12 months and we are concerned that community radio potentially is being left behind. Particularly when there are discussions about deregulation of commercial radio, community radio could end up being more regulated than commercial radio. We want to ensure that community radio has equal opportunities to ensure that it is future-proofed.

Chair: We mentioned earlier that if there are any tweaks to the way that the draft Bill is worded that you think we should consider as a Committee, please forward them on to us, and indeed any other evidence that you think of when this is all done and dusted. We are very grateful for your time today. Thank you so much for appearing in front of us.