



Communications and Digital Committee

Corrected oral evidence: The future of Channel 4

Tuesday 7 September 2021

2.45 pm

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Members present: Lord Gilbert of Panteg (The Chair); Baroness Bull; Baroness Buscombe; Viscount Colville of Culross; Baroness Featherstone; Lord Lipsey; Baroness Rebuck.

Evidence Session No. 1

Heard in Public

Questions 1 - 10

Witnesses

I: Lord Burns, former Chair, Channel 4; David Elstein, former Chief Executive Officer, Channel 5.

USE OF THE TRANSCRIPT

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Examination of witnesses

Lord Burns and David Elstein.

Q1 **The Chair:** Welcome to our witnesses for this first meeting of our short inquiry into the future of Channel 4. I will introduce our witnesses in a moment. Before that, for the record, perhaps it would be useful to remind our witnesses and others what we are looking at. As I said, we are conducting a short inquiry into the future of Channel 4, which has been triggered by the Government's decision to consider its future ownership model with a view to possibly privatising Channel 4.

These are the questions we are asking. What has changed since the ownership of Channel 4 was last reviewed five years ago? If it were privatised, what would the risks or benefits be, and how could the risks be mitigated? If it were not privatised, what would be the benefits? If it were not privatised, would there be a risk to the long-term viability? How might that be addressed? Finally, regardless of its future ownership, should the regulation and remit of Channel 4 be amended in any way? That is what we are looking at.

To start us off today, we have two incredibly knowledgeable witnesses who have very kindly agreed to come and give us evidence. Lord Burns is an economist who has served as chief economic adviser to the Treasury and Permanent Secretary to the Treasury. He was appointed independent adviser to the Secretary of State for the BBC charter review. He has chaired Marks & Spencer, Channel 4 and Ofcom, so is well positioned to help us with our inquiry.

David Elstein is a former chairman of openDemocracy. As a founder member of the 76 Group, the Channel Four Group and the association of directors and producers, he was active throughout the 1970s and 1980s campaigning for the creation of Channel 4 in its remit then as an independent publicly owned broadcaster. He has gone on to undertake a number of roles in the industry, and again is going to be a fascinating witness.

Lord Burns and Mr Elstein, thank you both very much indeed for agreeing to come and give us evidence. We have a bunch of questions for you, and we will go around members of the committee. Can I just start off by inviting you to add any brief words of introduction to yourselves that are relevant and any overarching thoughts? Then we will drill down into some of the issues.

Lord Burns: The only thing I would say by way of introduction is that, from my perspective, the real flaw in the Government's consultation document is to see Channel 4 simply as a standalone publicly owned broadcaster that could be more successful if only it were more like ITV or Channel 5. However, by design, it is inseparable from the privately owned, independent production companies that produce all its programmes. They live in the same ecosystem.

From the outset, Channel 4 has had this demanding remit that it is required to commission all its programmes from independent production

companies, and that is a key part of it. The idea that, somehow or other, there is a big problem with Channel 4 being in the public sector and that it would be better off in the private sector seems to miss the point that it is sitting side by side with an independent production sector.

Channel 4 has the role of commissioning, but the activity is fundamentally carried out by the independent production sector. The consultation document talks a lot about Channel 4 needing capital, but it would only need capital if it were to make its own programmes. At the moment, the only capital it needs is that which is necessary to get it through the good times versus the bad times with the ups and downs of the advertising industry. The capital is basically with the independent production sector.

The main point I would make in reviewing this is that this is not just a question of looking at Channel 4. It really is a question of looking at it side by side with the independent production sector. The two exist together. They have worked off each other throughout this period. Channel 4 has been a very important part of the immensely successful independent production sector that we have. Frankly, I find it slightly surprising that it should be felt at this stage that, somehow or other, the public service broadcasting ecology of the UK would be helped by Channel 4 turning itself into an organisation that also made its own programmes.

David Elstein: Good afternoon. I joined the BBC 57 years ago last month. I worked in the World Service, the Home Service and BBC Television on programmes such as "The Money Programme" and "Panorama", for which I covered the Six-Day War. I moved to ITV in 1968, working on "This Week", "Weekend World" and "The World at War", before becoming an executive producer of documentaries at Thames TV.

During the 1970s and early 1980s, as the Chair has said, I was very active in the campaign to allocate the fourth channel not to ITV for an additional service, as promised in the Conservative 1979 election campaign, but to a publisher-broadcaster owned by the IBA. John Birt and I wrote a blueprint for how a Channel 4 might be operated; that blueprint, by default or design, turned out to be the model adopted in 1982.

I was closely involved in demonstrating to Home Office officials that there was a nascent independent production sector waiting for commissions. I arranged a Bafta screening of half a dozen indie productions, not revealing that these were virtually the only ones in existence. Until then, the BBC and ITV had refused to commission any programmes other than from their own in-house units. I had secured meetings with both Alasdair Milne, then BBC director-general, and Lady Plowden, then chair of the IBA, and asked for British independents to be allocated the same quota of output as the Commonwealth—ie 2%—to no avail.

When Channel 4 was launched, I left Thames to set up an independent production company, Brook Productions, and for four years made

programmes for Channel 4 such as "A Week in Politics", as well as, for the first time, dramas for the BBC and ITV. In 1986, I returned to Thames as director of programmes. I moved to Sky as head of programming in 1992 and Channel 5 as its launch chief executive in 1996.

I have been a visiting professor at three universities. My lectures at Oxford were published as *The Political Structure of UK Broadcasting 1949-1999*. I have also served as chairman of the British Screen Advisory Council, now the British Screen Forum; the National Film and Television School; and openDemocracy for many years.

My main concern in this hearing, as in many others, is the fate of public service broadcasting. My postgraduate thesis was entitled *The Concept of Public Service Broadcasting*, and it is the steady decline in provision of public service content over the last 18 years that animates me. This decline is not confined to Channel 4. However, it seems to me that privatisation of the channel could offer a crucial boost to public service provision.

First, the lax regulatory regime that has allowed Channel 4 to drift away from public service—its motto now is "change the world through entertainment"—could be significantly tightened under a contract for sale. Secondly, as my written evidence demonstrates, a private owner will also be able to implement the substantial synergy savings Channel 4 has failed to pursue, which in turn could be reinvested in an enhanced content budget. Also, the proceeds from a disposal could be dedicated to the creation of a long-term fund for public service content. This was, as it happens, what the Conservative Party pledged in 2001 during a previous privatisation debate. I hope it is revived in the course of this consultation.

Q2 **Baroness Buscombe:** For the first question, we are going to be talking to that point: the question of public service broadcasting. You have both heard the questions, and my question is how effectively Channel 4 contributes to the objectives of public service broadcasting.

Before answering it, one questions, looking at just one day's scheduling, whether there is any public service broadcasting at all. What you have just been saying, David, seems to ring loud and clear if one looks at just one day's scheduling. I remember the early days of Channel 4. Everyone was talking about plurality of content, and it is important to recognise that public service broadcasting talks about high-quality content, diverse programming, some aspect of educational fulfilment and a distinct character. The distinct character was an important one. But when you look at the schedule, it is almost all American sitcoms and documentaries, if you could call "24 Hours in A&E" a documentary—I would not—or something like "Steph's Packed Lunch" a chat show. There is nothing here. A lot of it is American and is not independent production in the UK.

Could I ask you, David, to respond? You have already in part. Do you think it contributes to the objectives of public service broadcasting, or

indeed should it? Should we give up trying?

David Elstein: This is a slightly tricky question. The objectives of public service broadcasting, as set out by Ofcom with its purposes and characteristics, are immensely vague. More or less anything qualifies. It is a test that is impossible to fail. The old definition of public service broadcasting, which Ofcom, wearing another one of its hats when it does regular investigations into the supply of public service content and tracks a steady decline over the last 18 years, is quite clearly confined to eight categories of output: news; current affairs; regional programmes, which obviously Channel 4 cannot do as it is a national broadcaster; children's; arts; religion; documentaries; and education.

Up to 2003 when the law changed, when the Communications Act 2003 came in, Channel 4 was doing huge amounts of public service content. It was required to do seven hours a week of adult education and actually did 12. It was required to do 335 hours of schools programmes; it did 700. Over and above news, current affairs and religion, it also introduced a requirement for multicultural programming, and it went over and above on arts and documentaries: five hours of arts a week and six hours of documentaries.

Nearly all of that has gone. Today, what we have is the news, because it is a requirement under tier 2 of the Act, and current affairs, although who knows what the current affairs programmes are? They never tell us. We know that 10% of them are called "Dispatches". No list is ever provided of what the other so-called current affairs programmes are. Is "Joe Lycett's Got Your Back" current affairs, comedy or something different?

Obviously, there is almost no religion. Arts have gone. Education has been not just abandoned, but perversely Channel 4 even ignores the statutory requirement that it contribute a significant proportion of its output as having educational value and educational content. There are four hours a year, if you are lucky. I am still not sure what those four hours are. It is allowed by Ofcom to classify a teen drama, "Ackley Bridge", as education. The abandonment of public service content has been dismaying.

In defence of Channel 4, I would say two things. First of all, it still supplies a lot of very good quality programming. I rather like "24 Hours in A&E". It has become almost a singalong programme, because it is such a format. It is the same thing every time, but it is still a valuable insight into my local hospital, St George's. Whenever I go there, I hope I will get those lovely staff people rather than the butchers who cut bits of me off. It still does quite a lot of innovation, some of which is not to everyone's taste. "Naked Attraction" is probably not the ideal programme for a House of Lords audience, but no other channel is doing that currently.

Baroness Buscombe: It has "Come Dine With Me".

David Elstein: It does plenty of good content. It has just walked away, as have ITV and the BBC—that is what Ofcom tells us—from the original

concept of what public service broadcasting was. We now have something much woollier that is almost impossible to grasp and certainly impossible to say you have failed at.

Baroness Buscombe: Lord Burns, would you agree with David? Does it matter, if you agree that Channel 4 has moved away, in terms of its future?

Lord Burns: When I was at Channel 4, which was from 2010 to 2015, we were very influenced by the remit and the engagements that we had with Ofcom as to whether we were achieving that remit. That remit is much wider than just a broad sense of public service programming. It is about seeking audiences that are difficult to reach, taking more risks, diversity and innovation. It still profiles very well in many of the results from the work I have seen, which no doubt still goes on, and which will be in the annual reports and the exchange of letters that takes place with Ofcom each year about how audiences have responded to it and to what extent audiences feel that Channel 4 has met its remit. It is the youngest-profiling public service broadcaster that we have; 80% of 16 to 24 year-olds are signed up to its digital offerings. It still does a huge amount of work in terms of the film industry.

There is a question of how one takes it. Frankly, I am not sure whether looking at one day's programming is very helpful. Any day last week would have seen almost wall-to-wall coverage of the Paralympics and news programmes, and that contributed to much of what was on Channel 4. No other broadcaster would be doing the Paralympics in the way Channel 4 has, and it seems to me that that is a fine example of what you would describe as public service broadcasting. Rather than look at one day, if the committee really wants to look at this, it should go back and examine how Channel 4 sets out in its annual report how it feels it has been meeting its remit, and the exchange of letters that takes place each year with Ofcom about its view as to how far it has gone.

Baroness Buscombe: I am particularly glad that you brought that point out about the Paralympics, which I am very emotionally attached to having attended the last ones in Seoul. Would privatisation be the end of such programming? That is a good question to ask.

The Chair: Lord Burns, you said that no other broadcaster could have produced the Paralympics in the way they did. Certainly, one of the ways in which it seems to me that Channel 4 is fulfilling its remit to provide something distinctive is the Paralympics, but also some of this other programming for disabled people.

Lord Burns: Yes, and minorities.

Q3 **The Chair:** It takes that very seriously, but is it true that no other broadcaster could have taken on the Paralympics and done it? That is a central question.

Lord Burns: First of all, I think it is the case, but this would have to be checked, that there was more coverage of the whole of the Paralympic

Games in its widest sense, and more hours available for people who wanted to watch different parts of it, in the UK than in any other country in the world. This reflects the way it was treated. I was at Channel 4. It was not my doing, but almost the first thing I had to do when I arrived at Channel 4 was to sign a contract for the Paralympics. Until then, the Paralympics were not getting the coverage from TV that has subsequently been provided by Channel 4.

Channel 4 has an instinct that, if it takes something on, it really has a go at it. It recruited not only lots of disabled people who are presenters but former Paralympians to take part in the programme. It was not just a question of showing feeds that were coming from some central place; they put their heart and soul into it. I think it is still the case. I do not know what the economics of it are, but I would be surprised if it made sense to any commercial broadcaster to do it on the scale and in the way it has been done by Channel 4.

The Chair: David Elstein, what are your thoughts on it? This is true, is it not? They have not only done it; they have done it with incredible vigour. I guess it is a chicken-and-egg thing. This country has taken the Paralympics much more seriously than other countries, which may have led to the high viewing figures, or it may be that, because Channel 4 has produced it so well, it has taken off more broadly in this country.

David Elstein: Hats off to Channel 4 and the way it does the Paralympics. It is done in a distinctive and effective way. Channel 4 managed to go through from 1982, when its opening night drama was "Walter" starring Ian McKellen, a film about a disabled young man, through seven Olympic cycles without making any attempt to cover the Paralympics and leaving it to the BBC. In the interim, it covered a dozen other sports. It covered cricket in a magnificently robust way, and then abandoned it. It covered NFL football and abandoned that. It covered sumo wrestling. It has dipped in and out of a dozen sports.

It is good that they are committed to the Paralympics. I hope they stay so and any new owner would stay committed to covering the Paralympics. Of course, Paris will be a much more interesting prospect than Tokyo, because there will be much more content in daytime viewing when it will be even more relevant. It will not be four hours at night; it will do 11 hours across Channel 4, E4 and More4.

All I would say is this. Good as that is, and there are other examples of Channel 4's inventiveness, innovation, et cetera, you cannot make a decision about the bigger picture of the prospect for public service broadcasting and for Channel 4 under private ownership on the basis of 1% of transmissions during the year.

The Chair: I guess this is the question I am asking myself. Could any other broadcaster have taken on and done the Paralympics in the way that Channel 4 has? Could a privatised Channel 4 do them as successfully as Channel 4 currently is?

David Elstein: Why not? Terry is saying that he does not know what the economics were for 2012 or 2016.

Lord Burns: You can guess.

David Elstein: That is because Channel 4 will not publish the numbers. We know that the budget for sport went up by £7 million in 2012 when Channel 4 did the London Paralympics, so it got big sponsorship deals out of BT and Sainsbury's, improved its audiences dramatically from the previous year and got in a lot of younger viewers. I would be very surprised if that turned out to be a loss-making proposition, because you had 500 or 700 hours of output for a very small amount of money.

Rio was more expensive for obvious reasons, but this is not what is called a brand builder or a loss leader. It is a piece of programming. Channel 4 does lots of pieces of programming that do not earn their keep. The most obvious one is "Channel 4 News", but "Channel 4 News" is still not entrenched in terms of budget. It is entrenched in terms of hours. If we look at Sky News, that is entrenched in terms of budget until 2027, I believe, because Comcast was required to sign an undertaking to the Secretary of State when it undertook the takeover of Sky, that it would ring-fence the budget for at least 10 years.

That is what we need to see in the legislation if there is privatisation of Channel 4. We do not want just the output hours to be protected, but the budget. I would like to see an independent editorial board instituted as well. You do not get that opportunity more than once in a broadcasting cycle to create clear conditions and contractual requirements with penalties in the tens of millions of pounds for failure to comply.

The Chair: We will come on to some of that in a moment when we move on to the implications of privatisation.

Q4 **Baroness Bull:** This is a question prompted by something you said, David, about the public service objectives currently being vague. It used to be very clear in eight categories. I wonder whether that is because we are vaguer in how we blur the boundaries between our life experiences. If one thinks of it that way, how much of Channel 4's programming could be considered educational in a new sense of the word? I hate to be the first person to mention it, but I am going to. "It's a Sin" could be considered deeply educational.

David Elstein: Five years ago, Channel 4 claimed to have broadcast 2,979 hours of education—55 hours a week. It was a grotesque claim that was not substantiable, but Ofcom did not criticise it, because the language is so vague. By the way, this is not a change of attitudes; Parliament did it. This House and the other House abolished all the quotas and requirements other than news and current affairs in the Communications Act 2003. That was a deliberate decision by Parliament and the broadcasters rode a coach and horses though the new legislation because nothing was enforceable.

ITV was particularly reprehensible in its behaviour in killing off religion, children's programmes and a lot of regional programmes. Ofcom proved to be feeble down to powerless in trying to stop it. It is not something that has happened in society; we let it happen. The broadcasters have

now emptied the word “education” of meaning and attached it to anything they like.

When I was the director of programmes for Thames TV operating under the old IBA, I had to deliver adult education programmes in peak time. I tried to pass off “Wish You Were Here...?” as adult education, and the IBA gave me a quick flea in the ear: “No way.” They had education officers classifying it: “Where is the educational content? Who has validated it? Is there follow-up literature?” That is what adult education is. If we want to be vague and loose in our language, and say, “Well, done, Channel 4. You’ve done all this education”, so be it. I like the old system.

Baroness Bull: You would not accept that there has been a change in the way that we, for instance, educate, and that it is less rigid in terms of lessons and follow-up literature.

David Elstein: There are two things that the statute requires: programmes of educational value, and programmes of an educational nature. What you are talking about is the second. The first, educational value, is something you should be able to quantify. You should be able to demonstrate it. Where is the value? How has it been achieved? How many leaflets were asked for by the audience that we can send out? What follow-up is there? That is how adult education used to be run in our broadcast industry—no longer.

Lord Burns: When I was doing the review with Tessa Jowell back in 2005 for the BBC charter review, I started that process, with my mindset of an economist, trying to define public service broadcasting as broadcasting that would not be done by the private sector. Where was the market failure? That journey proved to be somewhat of a dead end for the reasons that Baroness Bull gives, because a lot of public service programming is about distinctiveness, relevance to community, whether people learn from it, whether it changes their lives and whether it informs their lives. These are things that are much more complicated and difficult to define than one might think and probably different from the way that people thought about it years ago.

On the issue of education, I just ask David whether, in this day and age, the best way is to have the kind of education programmes that he is outlining. Is it sensible that they should be on linear television now that we have all kinds of resources in online television, other television channels and television services? Is that not a much better way of dealing with the kind of formal education requirements that he is describing of follow-up, leaflets, documentaries, et cetera?

David Elstein: That is what happened to schools. BBC Schools and ITV Schools were shunted offline, because it was more efficient to distribute via video and online distribution. You are entirely correct. I still believe that you can create programmes of educational value on linear television and demonstrate that value, and we have abandoned that.

Q5 **Viscount Colville of Culross:** David, in the document you sent us, you criticised the present PSB remit as ineffective and unlikely to “scare a maiden aunt”. You have just now talked about the old definition of PSBs

with the eight categories of output. There is no religion and no arts, education has nearly been abandoned, and Channel 4 is ignoring the requirement for this educational output. We all know that religion, arts and educational output have a really hard time getting any kind of ratings. They are effectively market failures. The BBC has tried and tried and tried, for instance, to get people to come to arts, and it keeps failing to get audiences. It might be the way it is commissioned, but it is seen across the industry as very difficult to do that sort of thing.

If you are going to privatise Channel 4 and insist on a much tougher remit that has to cover these market failure areas in order to realise your definition of public service broadcasting, is that going to scare off not only a maiden aunt, but any potential owners of a privatised channel?

David Elstein: I would not recommend that the Secretary of State, in negotiating with a potential buyer, try to reinstate an hour of religion at 6 pm on a Sunday, seven hours a week of education, or anything like that. Like Terry Burns, I am much keener on having a significant contestable fund for public service content, i.e. the kind of content that the market will not deliver. I would hope that the proceeds from the sale of Channel 4 would deliver that larger fund.

In the contract with a privately owned Channel 4, I would like to see a much tighter definition of what you do want from it. What is a reasonable thing to ask for it to do, and can you contractually bind it to doing it? That will still be mostly news and current affairs; I do not expect the old categories all to return. I marvel at the fact that Sky, a commercial company, can run an arts channel of very high quality and great innovative impetus as an investment in the audience and treat it as something that it wants to do. Channel 4 used to commission opera; it has just got out of the habit.

Last year, I was absolutely delighted. I emailed Alex Mahon, the chief executive of Channel 4, and said, "Do you know that there are 13 half-hour programmes of 'Barenboim on Beethoven' that have been sitting in a vault for 50 years and never had a network transmission? Alex said, "Great, I'll put you in contact with Ian Katz, chief creative officer". The next day, I got an email. All the stuff was sent to him. A month later, it was on air for two hours on Channel 4 and six and a half hours on More4. It was fantastic and dirt cheap. It increased their arts output by 150% in one fell swoop and one email. It can be done if you have the willingness to do it. Is there a Channel 4 commissioning editor for arts? No, so how do you expect any programming to turn up?

Q6 **Baroness Featherstone:** This is really a "why now?" question. Five years ago, this committee published its report on Channel 4 and concluded that the risks of privatisation of Channel 4 outweighed any potential benefits. Not that long after, the Government announced that it had decided against privatisation. You ask what has changed. The reasons given in the recent announcement—"Let's have another look at privatising Channel 4 ownership"—were increased global competition, changing viewing habits and the challenges going forward for linear advertising. The CEO of Channel 4 this June told the DCMS Select

Committee that not only had she not seen any new or compelling case for privatisation, but the public service content had become even more important.

Why now? Who is right? Are both right? What has really changed in those five years?

David Elstein: I was not the one who wrote the consultation documents, and I have not spoken to John Whittingdale in those five years, so I do not know what was in his mind. The ostensible reason given in the consultation document—that Channel 4's revenue base is too narrow, i.e. overwhelmingly TV advertising, whether linear or online—has been true for a long time and is unlikely to change. It cannot become ITV overnight with half its revenues coming from production.

Two things have changed marginally in the interim. The rise of the streamers, and the huge amount they invest in content, has been significant in those four years. Netflix has quadrupled its expenditure. Amazon, from a standing start, has gone to \$8 billion. Channel 4 itself says that the main strategic risk it faces is competition for content, high quality and talent. But that is a marginal risk. You will get less and less, and it is not so much that you need more money. You will just get fewer and fewer rights, and you will be a minor, rather than major, participant in the biggest productions.

I personally do not see that as game changing. What I did find a game changer, although that was after the event, was the annual report of 2020 for Channel 4, which revealed that it could cut its budget by £138 million or 23%, create a surplus of £74 million accidentally and still meet the remit. That tells me that the remit is a meaningless concept. Basically, Channel 4 is infinitely sustainable. It could go to 95% repeats and still be compliant with its remit.

Baroness Featherstone: Is that about ownership or how it is being done at the moment?

David Elstein: The great advantage of an ownership change is that it gives you a one-off opportunity to put it all on a contractual basis. You cannot spend less than £500 million a year; otherwise you will be penalised. You must spend X amount with small independents. Channel 4 spends much less with small independents than the BBC does. Channel 4 spends, on average, £5 million with each of the non-qualifying independents, i.e. American production companies; then it spends £1 million with qualifying independents, i.e. British independents. The market has changed so dramatically, it is simply wrong.

We are forcing Channel 4 to hand over IP to Warner Bros. Why? How can that be a sensible business model? Under private ownership, you have a chance to change those rules and make it much more realistic for Channel 4 to get value.

Baroness Featherstone: You do not think that can be done under its current remit.

David Elstein: Tell me how. I do not think so. One of the reasons why it is so difficult is that, if you try to change the rules for Channel 4, you run into quite a few issues with ITV, Channel 5 and consequentials. If you just take Channel 4 out of that and say that it is a contract for sale, you do not have any knock-on for ITV or Channel 5, except incidentally, as a recent paper from Enders Analysis pointed out, that they will all get much greater security in their length of contract and their access to digital terrestrial capacity, because it will become a sale point for Channel 4. If it becomes a sale point for Channel 4, it will have a good knock-on for ITV and Channel 5.

Baroness Featherstone: Lord Burns, I should really have started with you. I apologise.

Lord Burns: No, not at all.

Baroness Featherstone: It is because you are on screen, and now we have this terrible divide between here and not here. What is your view on that?

Lord Burns: My view is that, as David just said, very little has changed in the last five years. Streaming has grown but, by and large, this has been a continuation of developments that have been under way for some time. Furthermore, I do not see any way in which it particularly harms Channel 4 as opposed to the other public service broadcasters. The forces in play here are general.

In many ways, Channel 4 is in a stronger position. It is a more agile operation. It has an advertising business, which is reasonably advanced in dealing with digital advertising. Of course, it has a more prominent online service than the other commercial PSBs when it comes to competing with the streamers. The argument that things have somehow changed over the last five years is really quite hollow.

Baroness Featherstone: Indeed, so that leaves the question: why now? You are trying to indicate that having a new owner is like having a new sheet of paper and you can do stuff that you cannot do if you continue or change within an organisation.

Lord Burns: I do not understand this argument either. If we really wanted to go down the route that David is proposing, it would be a matter for Parliament to set this out in the legislation as to the remit of Channel 4. If it wants to have it strengthened in ways or for it to be more precise, those options are available, and Ofcom will have the job of enforcing it. There may be other reasons, but the argument that very much has changed in the past five years is a rather weak one.

Could I also comment on the point that David made? I do not wish to get into a to and fro with David, because we have often found ourselves in agreement about things to do with public service broadcasting in the past. However, the point that the budget fell and that Channel 4 somehow or other did not change in terms of its remit is a weak one. As we know, the time lags involved in broadcasting are very long. You can survive for a period, because you have quite a long pipeline of already commissioned programmes that you can use during tough times and

make it up in other times. Frankly, on the narrow issue—"Why now?"—it is quite unconvincing.

Q7 **Viscount Colville of Culross:** In the Government's appeal for the consultation, they said it was worth considering whether current measures such as publisher-broadcaster restrictions are still necessary. You have already talked about the terms of trade and how the IP favours the big American companies, which, after all, own a majority of the independent companies. Your question was why on earth Warner Bros should gain the IP at the expense of Channel 4.

Surely the point of the terms of trade was to be able to encourage small British production companies. Even if money is going to the bigger American-owned companies, it is still encouraging that 160—I cannot remember the figure—small UK companies are getting commissions. The terms of trade are crucial in growing their business; everybody will tell us that. We have a number of independent production companies coming to us; I am sure they will tell us about that.

That is going to be against the desire to make sure that any new channel has archives. Everything is really about the control of archive and IP in this age of streamers. It is all about the long tail and being able to watch things when you want. How will it be possible to realise the requirements that any new privatised company that owns this channel is going to want when it comes to archive, making sure that small independent UK production companies that are, after all, the lifeblood of this industry are not destroyed in the process?

David Elstein: We have legislation in place. A 25% quota applies to the BBC, ITV, Channel 4 and Channel 5. All I would recommend is that that be strictly applied to qualifying independents and not just independents: All3Media, Shine TV, Endemol and all the other American-owned ones. That should simply be left in place. It is imaginable, for instance, that ITV could buy Channel 4. It is not something I would personally recommend, but ITV has a very big in-house production unit and creates a huge amount of IP every year. In fact, it has about half its business overseas as opposed to in the UK. There is nothing inconsistent with Channel 4 being owned by a broadcaster that also has a production entity, so long as it continues to obey the law and do the 25% quota.

Looking at the numbers, if an ITV-owned Channel 4 applied the 25% quota, there might be a couple of million pounds' less spend with qualifying independents than there currently is. It is a tiny margin. The only people who would be disadvantaged would be the big independents. We do not have to worry about them; they are not our responsibility. I do not have to worry about Love Productions and "The Great British Bake Off", which are 70% owned by Comcast. That is not a point of principle for the future.

Generally speaking, I agree with you. The smaller independents should have a place in the contract: "You must spend X amount or X proportion of your budget with producers that have turnover of less than £10 million a year." At the moment, 34% of BBC commissions go to small producers,

and 23% of Channel 4's do, so Channel 4 is not doing great on that front. We could make it do better.

Viscount Colville of Culross: In the paper you sent us, you said, "For some potential acquirers of Channel 4, changing the terms of trade might be a bargaining point: but it is not something that needs to be resolved ahead of an actual negotiation". From what you have just said, it sounds like it does need to be resolved. We need to nail down to make sure that that money is spend in the right places.

David Elstein: I am not an expert on parliamentary legislation. My expectation is that, if the process goes ahead and John Whittingdale still wants to keep going after this consultation, there will be a White Paper that will list a whole bunch of things. There will then be an invitation to apply to acquire Channel 4. There will be a set of conditions, but they will not be locked. There will be some negotiating room, because you ideally want to have a competitive bidding process. You want people to bid against each other in commitments as well as cash.

Maybe that is a starter. Personally, I would make defending the news budget an absolute rather than something to be talked about, but this is for Parliament to decide. It is not for me.

Viscount Colville of Culross: Lord Burns, what is your view of what you have just heard and of whether it is a threat to the independent production sector in the UK?

Lord Burns: It seems to me that it is clearly a threat. I am a strong supporter of the existing model of the publisher-broadcaster. On the terms of trade, when you are at the sharp end of this, it is an issue that is with you because the circumstances keep changing and you wonder to what extent the terms of trade need to change to reflect both market power and new ways of distributing material. In the main, it has been handled pretty well. Certainly during the time that I was there, I had no real problems from the terms of trade.

The essence of Channel 4 is that it supports this very large sector. Because it reinvests all its earnings into programming, it has much more freedom to take risks, to decide to try out programmes, and to do things that it is not quite sure will win audiences. Once you change this to a position where people become quite worried about loss-making activities and risks that you might be running, of course it is going to change behaviour.

The long history of the commercial broadcasters when it comes to obligations upon them has been to want to chisel away over time at the things that are loss-making. David has talked about his view on the way in which the general remit has been softened, but Channel 4 is still there, taking risks, being prepared to try programmes and being prepared to fund and commission shows with a wide range of people. It would be very difficult to sustain if Channel 4 itself were up against a shareholder test.

Q8 **Lord Lipsey:** I wonder if I could explore the question of remit, which is

very important. I read with the usual great pleasure your splendid essay, but I ended up very confused. You say, and you argue powerfully, that Channel 4 is not sticking to its remit in any meaningful sense now. In view of that, are you saying that we will just sell it off without any remit or basis on which we will make further progress, or are you saying that whoever takes it over should have a much stricter remit attached to it? If that happens, is it really going to be a commercially attractive proposition? You will have to pay the costs of a new remit and the costs of buying the damn thing.

David Elstein: When Viacom bought Channel 5, it volunteered an enhanced remit, much to Ofcom's surprise. It carried on doing things that it was not even required to do, such as children's programming, which Channel 4 has never bothered to do. What is commercially attractive will be down to them. The opportunity to squeeze £150 million to £200 million a year of costs out of a combined operation looks interesting. If in turn you have to commit to a ring-fenced news budget, guarantees about peak-time current affairs, a minimum level of expenditure on content every year, a guaranteed amount of expenditure in the nations and regions, or a guaranteed level of commissioning to small independents, it all seems pretty commercially manageable. If I were running a private equity bid, I would in no way be alarmed by any of that. The proof of the pudding will be in the eating. Does anyone turn up for the auction? What do they have to say?

One of the more interesting things that the Enders Analysis paper pointed out last week is that, in this kind of situation, you are looking at what the other guy might do. One of the big mistakes that ITV made was allowing the Premier League to go to Sky because it could not imagine extracting more than £13 million a year in advertising revenue from the Games. That should not have been the issue. The issue was how much it was worth to Sky in building its business. Sky, ITV, Viacom, Discovery—who knows who might turn up—will have to do quite a bit of gameplaying internally: "What is the downside if they get it?" If I am ITV, and Sky manages to buy Channel 4, that will put a bit of a crimp in my ad revenue dominance, and Sky will do much better on sports rights because it will have a free-to-air outlet to match up against its pay TV.

We are getting a little bit ahead of ourselves. Let us get through the consultation. If we get through that, the next stage is a White Paper and, if we get through that, a bidding round. We will then find out.

Lord Lipsey: I do not think we are getting ahead of ourselves, David. You said that a great advantage of this would be that money would be coming through from the sale, with which you could set up a new public service broadcasting fund. But if the money is less, because you are imposing a tough remit, there will not be the great advantage that you were citing to us earlier on.

David Elstein: I would say that you are trading one against the other. You are trading public service content in a contestable fund for public service content in a precise given way from one particular broadcaster. I do not see that that is an unacceptable trade-off.

Lord Lipsey: How do you see it, Terry?

Lord Burns: I have no difficulty in reaching the conclusion that the tighter the remit and the more demanding the obligations upon the broadcaster, the smaller the end sale price to whoever buys it. Many of the things we have discussed that might be strengthened, or that David is suggesting should be strengthened, are things that would make the future profile of funds look less attractive. I do not know by how much, and it is not easy to evaluate. But, as a principle, it must be right that the greater the demand you put upon people to do things that they would not be doing for commercial reasons, the lower the sale price.

Q9 **Baroness Rebuck:** I first need to declare a conflict. I am a non-executive of Penguin Random House, which is owned by Bertelsmann. It is involved in its own potential merger with M6 and TF1.

Just building on David's question, it was part of the Enders Analysis paper that the tighter the remit might lower the price. The range was quite big. Going back to your opening comments, Lord Burns, on the effects, psychological and practical, on the wider ecology, you talked about Channel 4 being umbilically linked to the independent sector. David Olusoga has written about starting his own independent production company. He says that he would not have done it if he had not known that Channel 4 was there in its current form.

David, you just mentioned the regions, and that seems important as well. The EY report talked about a number of small independent production companies being hot-housed within the new Leeds headquarters. To what extent are you concerned? If you take something out of public control, even if it is not doing everything that it should do at the moment, could you tighten that up through regulation if you put it into private control.

This is notwithstanding the back office cuts, which just means fewer people and possibly a smaller budget to play with. What about this intangible effect on the wider creative community, both the regions and to a lesser extent the training? A lot of broadcasting companies do training, but Channel 4 does a lot of interesting training of new entrants. Would you have concerns in that area?

David Elstein: Channel 4 is very inventive in doing all kinds of interesting things. It had to be kicked up the backside to move an office to Leeds. It resisted and dug its heels in until the whole board was close to resigning until it finally agreed. Great. I love the old Majestyk nightclub in Leeds. I was very sorry when it closed and delighted when somebody found a use for it. You came out of Leeds station or the Queens Hotel and you had an eyesore to your left. Now you have Channel 4, and it will open more offices in Glasgow.

Channel 4 is late on the scene in terms of regions and nations. Until 2003, it was doing 3% in the nations and regions. Then it agreed to 9% when the three nations are 18% of the four nations in population terms. Channel 4 spent the grand sum of £1 million on drama in Northern Ireland recently. HBO spent £1 billion on drama in Northern Ireland.

The late arrivals at the train station of do-gooding deserve all the credit for getting there in the end, but there are lots of ways of doing it. ITV was a regional network for decades until it was all allowed to merge and close down all its regional centres. When I was director of programmes at Thames, 75% of ITV's output was from outside London, with fabulous shows: "Inspector Morse" and "Taggart".

This is a function of regulation, not a function of ownership; nor is it even a function, in my view, of culture. The BBC is very good at supporting small independents, at the moment much better than Channel 4. For all its so-called innovation, Channel 4 delivered fewer one-off and new programmes last year than Channel 5 and far fewer the previous year than BBC2.

Yes, there are some delicate things here and it would be nice to keep the best things going, and Channel 4 has a very good track record in training, going all the way back Jeremy Isaacs, where it had the levy on training, which was unique in public broadcasting. I do not know how you manage those things and still manage a change in control. I hope we will not throw out the baby with the bathwater.

Lord Burns: There are two issues when it comes to regional production. One is the extent to which the programmes are being made outside London. The other is the extent to which the offices of Channel 4 itself are outside London. Commercial pressures, of course, meant that, for some time, Channel 4 wanted to take the easy way, in a financial sense, of having all its headquarters in London, given that most of the people who make programmes were travelling backwards and forwards to London anyway.

The outcome may have been dragged out of them, as David says, but it seems sensible to me. It is another example of something that you would not have done for commercial reasons. It has been achieved as part and parcel of being a publicly owned operation. Getting programmes made outside the M25 is very tough, and I had five or six years of dealing with this. That is for the simple reason—David will know this well—that most of the people who get involved in the business of making programmes seem to themselves be magnetically drawn towards the southern part of England.

The Chair: I should mention for the record that a number of members of the committee referred to the paper that Mr Elstein sent us. It was formal evidence to the committee, so it is available on the committee's website. It has been very useful to us. We are running out of time, so we only have time for one final set of questions from Baroness Bull.

Q10 **Baroness Bull:** Let us imagine that the consultation determines that Channel 4 remains in public ownership. Given that we have heard from you today that much of the failure is about remit and regulation, rather than a question of ownership, if it is to remain in public ownership, what has to be done to enhance its viability and its value? What can and should change without incurring what you call the knock-on effect for other channels and disadvantaging other people?

Lord Burns: On the basis that it remains in the public sector as it is now but one looks for ways of enhancing it, without doubt the biggest issue for all the PSBs at the moment is prominence. It is about how you retain prominence on the new smart TVs in the way we have prominence of the normal, linear approach. That will be quite important. Terms of trade, possibly, at some point, will have to be looked at, as the world changes, but I am way out of touch on that.

I would have no objection to Parliament looking again at the remit and deciding whether there are parts of it that not so much need to be strengthened but maybe, in David's terms, should be looked at in more detail so that they are a bit more precise, although I would be cautious about this. Much of the success of both the Broadcasting Code and the remits that the PSBs have is that, by not being too detailed, they can be adjusted over time as the general broadcasting environment changes.

I am not sure that there is a great need for things to change at Channel 4 if it remains in the public sector. It has a good track record of being nimble on its feet. It was very early in introducing the digital channels. It was then very early into the online world and making things available digitally. It has a very successful relationship with young audiences, who are signed up to being members of the Channel 4 community. It has to be left to adapt and to be able to compete.

The other area that is much on the agenda at the moment is the whole question of the advertising sector and particularly the way in which the digital advertising works. The question was raised: to what extent is this dominated by certain US players that are making that market more difficult? Are there competition issues in terms of their powers? It is also partly a question of Channel 4 making sure that its whole ad sales service is sufficiently modernised and can keep up with the best in the world.

David Elstein: That is a really tough call. Here we are with a channel called E4 in permanent breach of the most basic requirement for 50% European productions. Year after year, it is not doing it and nothing happens. Nobody in Channel 4 says, "This has to change". Nobody at Ofcom says, "This is unacceptable". I mentioned the education point previously. I do not know how you impose discipline on a public corporation. If this were a private corporation, I would fine it £10 million a year until it got E4 compliant and not so dependent on American repeat comedies, dating all the way back to "Married... with Children", for goodness' sake.

The second thing I would respectfully suggest, if Channel 4 stays within the public sector, is that the raft of non-executive director vacancies be filled on a particular basis, which is to impose financial and operational discipline on the management. For me, Channel 4 is a classic case of corporate capture. The management has captured the non-execs; the board has captured the regulator; the regulator has captured the Ministers. In a year where commissions are cut by £138 million and staff costs go up from 9% to 11% of total cost, where 792 Channel 4 employees are apparently worth £110,000 a year, where Channel 4 costs

a great deal more than the House of Commons does, plus all the ministerial salaries, if you add those in, that cannot be right.

It has been wrong for a long time. When I was running Channel 5, I looked across at Channel 4 and thought, "Why do you need so many people? I'm running a channel with 25 people. You have 250 people just doing programming and 1,000 altogether"—900 now. All that needs to be addressed with some extra effort, discipline and agenda of change.

Channel 4's culture on the whole is a very healthy and welcome one within the broadcast arena. It is lively, youth-oriented and inventive. It tries to do things in its own way. Terry is quite right that All 4 is a big success compared with its competitors. As an organisation, it is bloated, and somebody needs to have a look at that.

The Chair: Lord Burns, do you have a final word in response to that or any final thoughts for the committee before we wrap up?

Lord Burns: No, I have had my say. It is some years since I was involved with Channel 4. I do not want to be caught here simply as a defender of it. I have sought to define the base upon which it exists and its framework. That is as a broadcast publisher with its programmes outsourced to a vibrant, independent production sector, where the commissioning is there to meet a clear remit in terms of the kinds of programming and objectives it should have. They include diversity, innovation, risk taking, et cetera. It is that model that I am anxious to retain as much of as possible, whatever happens to the ownership of Channel 4.

The Chair: You have described that very effectively for us. That was a very useful first session in this inquiry for the committee. There are lots of issues for us now to explore with further witnesses as we see them. I thank Lord Burns and David Elstein very much indeed for coming along and giving us evidence today. It was much appreciated and it was very good of you to give us your time. We have another session coming up with further witnesses, but for now this session is concluded.