



Select Committee on Communications

Corrected oral evidence: Public service broadcasting in the age of video on demand

Tuesday 14 May 2019

3.30 pm

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Members present: Lord Gilbert of Panteg (The Chairman); Lord Allen of Kensington; Baroness Benjamin; Baroness Bonham-Carter of Yarnbury; The Lord Bishop of Chelmsford; Baroness Chisholm of Owlpen; Viscount Colville of Culross; Lord Goodlad; Lord Gordon of Strathblane; Baroness Kidron; Baroness McIntosh of Hudnall; Baroness Quin.

Evidence Session No. 9

Heard in Public

Questions 84 - 92

Witnesses

I: Alistair Law, Head of Policy, UK and Ireland, Sky; Adam Minns, Executive Director, Commercial Broadcasters Association.

USE OF THE TRANSCRIPT

This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Alistair Law and Adam Minns.

Q84 **The Chairman:** I welcome everyone to this session of the House of Lords Communications Committee inquiry into the future of public service broadcasting.

Our witnesses today are Ali Law, head of policy at Sky, and Adam Minns, head of COBA. Welcome, both of you. Thank you for your time in coming to give evidence today. I am sure you have been following the inquiry to date. I will ask you in a moment to introduce yourselves briefly and answer a starter question to get the discussion going. The session today is being transmitted online on the Parliament website and a transcript will be taken.

Adam, and then Ali—we will go in that order—could you briefly introduce yourselves, your organisation and your background? In doing that, could you give us a brief overview of the contribution that commercial broadcasters make to the production of UK content for UK audiences, as well as your view of how the market has changed in recent years and continues to change as a result of new entrants such as Netflix and Amazon?

Adam Minns: Okay. There is quite a lot in there. Thank you very much for inviting me. We have been following the inquiry closely. I run the Commercial Broadcasters Association, which is the industry body for the multichannel broadcasting sector.

Before I joined COBA, I was director of policy for PACT, the producers' organisation that you will be hearing from next. Before that, I was the UK film editor for Screen International. So I have been following trends in investment in film and TV content for 20 years, which I hope will be useful today. If not, it will be a long hour.

I will talk about the contribution of the sector in a second, but I wanted from the top to talk about public service broadcasting. We have always been clear as COBA that public service broadcasting is very important. It is a cornerstone of the UK television sector. We have set that out in writing in our response.

We have various proposals for modernising the PSB system in the video-on-demand era. I am sure you have been hearing from PSBs about a lot of the problems and challenges they face, and the benefits they would like to receive to respond to that. I must admit that our proposals focus more on the public service obligations that should come along with that. Obviously, this is from the point of view that it is in our commercial interests to have fair competition. It is also important for public service broadcasting and the future of the delivery of public service content to have a debate about the obligations as well as the benefits.

The multichannel broadcasting sector spans a range of different channels on different platforms. A lot are on subscription services, but they are also on the free to air platform. In the past the sector has perhaps been

rather overlooked, but it has recently come of age and now invests £1 billion per year in commissioning UK content. As I said, it is available in a wide range of services—from commercial content to news, children’s content and arts.

Alongside that level of investment, the other important contribution that the sector makes to production and public service broadcasting is creative competition and plurality. The sector needs a range of different commissioners and channels to be healthy. We need competition, and so do public service broadcasters. Without Nickelodeon, you do not get “Peppa Pig”. Without UK TV backing a young street magician from Bradford, you do not get the global phenomenon that is “Dynamo”. Without Gary Neville shaking up punditry on Sky Sports, you get a fairly lazy “Match of the Day” approach, with presenters repeating a lot of what the clubs’ PRs have told them. This is very important—crucial—for the overall health of the system.

Alongside that, we provide plurality in the commissioning sector. For example, COBA members will spend a high proportion of their commissioning budgets on smaller indies. During some periods, there has been a lot of debate about super-indies dominating commissioning. The non-PSB multichannel sector helps keep the production sector healthy in that respect.

In addition, COBA members spend a very high proportion of their commissioning budget on new shows as opposed to returning series. A company such as ITV will spend up to 80% of its commissioning budget for external producers on returning series, such as the next series of “The X Factor”, whereas a very high proportion of multichannel broadcasting will go on genuine new ideas. That helps to keep a flow of fresh IP coming through the system.

Finally, we provide plurality and choice for audiences. This is not just more of the same. We have hundreds of niche services targeting specialist and minority groups. Something like Sky Arts, for example, can provide in-depth, specialist arts material. A mainstream PSP channel can do that, but it is difficult because they have to appeal to audiences of 2 million or 3 million.

Alongside that, a lot of non-PSB channels will have large black and ethnic minority audiences. Ofcom has looked at this. Asian audiences, for example, will spend 50% of their time on channels outside the PSB system, compared to about 30% as a UK average. So the contribution is investment in production and plurality, and creative competition.

Finally, how the market is changing is a really big question, but I will try to make my answer a lot shorter. The big thing in this respect at the moment is that production is booming. You heard from Andrew Chowns last week about how the UK production sector is booming, and from Alastair Fothergill before that about how Bristol is booming. That story is being repeated across the country. Production, according to the BFI, has risen since 2013 from a total of £400 million using the tax break in 2013 to £1.1 billion last year, so more than double. I had seen nothing like it since—dare I use the term—Cool Britannia, when the film industry was

making "Trainspotting", "The Full Monty" and "Four Weddings". Obviously, it is now happening in TV rather than in film.

I have two quick observations. I think PSBs are in good shape generally. The BBC remains the most well-funded public broadcaster in Europe. PSBs and their portfolio channels have 70% of the linear audience between four different companies, leaving hundreds to compete for the remaining 30%. They have nothing like the same dominance in video-on-demand, but when they have strong content, as in "Line of Duty" or "Bodyguard", they get record audiences. Alongside that, they are benefiting considerably from third-party investment for their commissions coming out of this production boom, which I am sure we will get on to later when we talk about proposals for a levy.

Finally, the scale of the SVODs, particularly Netflix, has at times been much exaggerated. We all know that Netflix has a global content budget of about £10 billion. When you look at what it is spending in Europe, that goes down to a billion, and in the UK the last figures we have from the PACT census show that all SVODs including Amazon are spending £150 million on UK independent content. I expect that is low and that the truth may be double or triple that. But it is still a fraction of what PSBs are spending and less than half of what non-PSB COBA members are spending.

So we should be wary of exaggerating the influence and impact of Netflix, even if it gets all the headlines. Thank you very much.

Alistair Law: Thank you, Chair, and thank you for the invitation to appear before the Committee today.

I am head of policy for the UK and Ireland for Sky. I have been at Sky for six years and prior to that I was at the communications regulator Ofcom, initially on the graduate scheme and ending up with a specialisation in content markets. I do not have quite as much experience as Adam but am nevertheless, hopefully, well placed to comment on at least some of this issues. Adam has said a lot of what I was going to say, including mentioning two crown jewels of Sky's provision in Gary Neville and Sky Arts. So forgive me if there is some element of repetition.

As to your question, Chair, the first thing we would observe is that at the moment UK content is in an incredibly strong position. Audiences and viewers arguably have better outcomes than ever before. There is a greater level of investment going into UK content than ever before, clearly fuelled by PSBs but also with the contributions that Adam was talking about from both non-PSB broadcasters and SVODs, and with additional money and funding coming from the independent production sector.

As Adam said, a real change in audience behaviour is often thought to be a cause for concern, but the extent of that is often overplayed. Linear and near-live viewing remains at greater than 80% of all consumption. As Adam said, PSBs themselves are in a prevalent position, with more than 70% of overall share of viewing.

So they start from an incredibly strong position, and there is no need to believe that this will be eroded in any way. The PSBs have faced significant elements of new competition before: the advent of multichannel in the late 1990s and digital television in the 2000s. They have faced a significant amount of well-funded content coming from American production companies and networks, which has been available on UK television for a number of years; and they have adapted, through portfolio channels and their on-demand provisions et cetera. They have changed and they remain the driving force behind UK content production and viewer preferences; we recognise that.

That is not to say that Sky is not an integral part of this. On the contrary, we consider it to make an immense contribution to the UK's cultural economy, and not only as a broadcaster. This is an area where Sky has very much been on a journey in the six years that I have been there and even more before that.

Adam mentioned the £1.1 billion that non-PSB broadcasters are spending on UK original content. Sky accounts for more than half of that, so we are a significant investor in original UK content. We have something like 70 shows in paid production at the moment. We will show 38 original series on Sky channels this year, 21 of which are returning shows. We have just had our most successful BAFTAs ever. We had 16 nominations and wins, for "Patrick Melrose", which won best actor—Benedict Cumberbatch—and best mini-series, "Sally4Ever", with Julia Davis at her most outrageous, and "A League of their Own". We feel that we have arrived as a content producer over the last five years and we are making a significant contribution across drama, comedy, arts, news and so on.

It is also important to mention Sky's role as a platform operator, because that is sometimes underplayed too. We understand our audiences and customers and we know that they value original UK content above all else. Because of that, the propositions that we have as a platform operator put UK content, including that from the PSBs but also Sky and our other partners, at the heart of the proposition. We offer linear and on-demand, a blended world that makes it easy to navigate between different providers and types of consumption, and we are a significant presence and way in which the UK PSBs derive value.

Around a third of viewing to PSBs comes from the Sky platform. That means that we represent millions of licence fee-payers' homes in the way they choose to watch BBC content, and we deliver significant advertising revenue to the likes of ITV and Channel 4.

So we see Sky as an integral part of contributing, not just to UK productions that we are making ourselves but more widely.

Finally, on your point about future levels of competition, as I mentioned earlier we believe that not only PSBs but other broadcasters have the capacity to adapt. That is because our strength lies in knowing in a deep way the local market—the UK original content market—which is still what viewers value above and beyond all else.

Q85 Lord Gordon of Strathblane: You have both spoken of the huge

increase in the amount of commissioning that is going on. In many ways that is a very good thing, but unless there is a commensurate increase in production staff is there not a danger of inflation in costs? We are getting mixed messages on this, so we would be interested in your take.

Adam Minns: Both those points are right. There is undoubtedly a huge increase in investment in production in the UK: in PSBs, non-PSB broadcasters, SVODs, and through soft money from the tax break.

In respect of UK-based commissioning, more than £4 billion per year is being spent, which is far in excess of anything over the last 20 years. If you start to add in inward investment, such as in the “The Crown” and “Game of Thrones”, that goes even further towards that £1 billion figure that I was talking about.

Undoubtedly there is a huge increase in investment. The first thing to say is that that is good news. It is creating a lot of jobs and a lot of opportunities for producers to grow their businesses. It is leading to cost inflation, or rather to an increase in spend per hour. I would absolutely agree with that. You heard from Peter Kosminsky about the spend per hour going from £1.2 million to £2 million. That is a 67% increase since the tax break. That sounds high. I look at the BFI numbers, which are the most comprehensive and reliable that we have. They give an increase in spend per hour of between 25% and 40% over that period. That is not just about costs; it is partly about the ambition of the programme. People are trying to have more outside locations and more scale to the programme.

But there is an increase in costs, with respect to crews and studio capacity. Funding is now not the problem. The danger is overheating and not having sufficient skills and capacity to service that. I do not think we are at the point where it is a sort of crisis. I have not heard of productions that are stopping or being forced to go elsewhere because they cannot find a studio. I would not be 100% surprised if that was the case, but I have not heard it.

My feeling is that we are now at full capacity, and if we want to grow the UK production sector we need to invest more in skills and studio space around the country. The key there—you heard it from Andrew Chowns last week—is the apprenticeship levy. I felt Andrew’s pain, and I was only watching on iPlayer. We are leaving about £15 million on the table because companies in the television sector cannot use the apprenticeship levy. You have to have a contract for a year, which does not work for the short-term contracts in production.

That £15 million is five times the budget for the screen skills levy—the other levy that we have—which every production that uses the high-end tax credit is supposed to pay into. That is at a record level now of £3.3 million per year, a fifth of the money that we are just losing out of this industry.

Lord Gordon of Strathblane: Have you made proposals to the Government on better use of the apprenticeship levy? It has been put to us, although full marks to the Government for introducing it, that it does

not seem to work very well within the creative sector.

Adam Minns: That is absolutely right. It does not work very well. A huge amount is being left on the table. There are conversations going on with the Government. It is not something that COBA is leading on; ScreenSkills is leading on it.

There have been some interesting proposals to the Government about how we could make the levy more flexible so that it would apply to short-term contracts. If we can do that, it will unlock so many of the issues that this inquiry has been discussing—inflation and increasing costs per hour—because if you can train more people you can start to push those down again. It will also help with representation of people from outside London, because then you can provide all sorts of training schemes, just as ScreenSkills is doing at the moment outside of London. And it will help with diversity issues, because you can build diversity targets into all these schemes.

As Andrew said, it would do the industry a great service if you could recommend that the Government consider seriously the proposal that industry is putting to them: to be more flexible on this.

Lord Gordon of Strathblane: Finally, although there may be enough capacity at the moment, it has been put to us that at the high end of the market, rather like Premier League football, stars can command outlandish salaries and there is overheating at that level. Would you agree?

Adam Minns: The inflation is happening in the high-end TV market, absolutely. You can see it coming as a result of the tax credit coming in in 2013 for high-end TV. That is where costs have increased.

Where the proposals for a levy on Netflix start to fall apart is that, even though costs are going up, PSBs are raising additional investment from third parties through co-productions to bridge that increase. Is that what you are driving at, Lord Gordon?

Lord Gordon of Strathblane: I am making the point that there seems to be a problem at the high-end of the market, which arguably could drive the PSBs out of that market because they simply cannot find the funds for it.

Alistair Law: That was going to be my original point. The level of cost-inflation that people are talking about seems to be concentrated at the higher end of the market, because it is more globalised and you get talent that can command attention in America, for example. Adam also mentioned the impact of the tax credits.

I do not necessarily see that having a detrimental impact on the PSBs, partly because it is only a certain percentage of their output as a whole anyway, so the cost inflation does not hit something like "EastEnders", which is consumed on a very high basis and much loved by the British public. It will not affect anything there. We at Sky are exposed to it, because lots of the series that we are commissioning are on a big-budget basis that may be more comparable with Netflix and Amazon-type series.

As Adam said, with that comes a greater ability to deficit finance, and a greater ability to look at overseas distribution as a means of finance et cetera, because you are producing content of the absolutely highest quality that resonates and has value around the world, not just in the UK.

From a PSB point of view, and for Sky to an extent, this also gives the opportunity for less tapped talents or other areas and genres to be more of a focus and to be brought through. We have a series of commissions that are very big budget and so on, but we also have our made-in-Britain series, such as "Save Me", by Lennie James, which still comes with fantastic production quality but is a very British story that focuses on local issues.

Netflix and Amazon have created almost a new category of "super-premium", and the PSBs can still to play in there. "The Night Manager", for example, absolutely hits that bracket, but it gives them the opportunity at the same time to focus on more localised elements.

Q86 Viscount Colville of Culross: I declare an interest as a series producer for Raw TV making content for CNN.

I want to ask you about the co-production arrangements between the SVODs and the PSBs. COBA says in its submission to us that the third-party funding of PSB programmes has doubled in the last seven years, and you said that in recent years the BBC has been involved in a series of co-productions with Netflix.

However, that is not what we are hearing from the production sector. Jane Turton said last week that the co-production model was really hard to pull off. Alastair Fothergill said that in high-end natural history Netflix wanted all the rights. And Peter Kosminsky said there was increasing reluctance by Netflix to co-produce with the BBC. Who is right?

Adam Minns: We are. The idea that the co-production market is collapsing, if true, is news to the many COBA members who are currently co-producing around the world.

This is the era that the Americans have dubbed "peak TV", meaning that there are more players than ever before, making more content than ever before. The truth is that Netflix, after its initial flurry as it launched into the UK market around 2013, has slowed down to a sustainable level of co-productions. It still has three co-productions currently going on: "Dracula" with the BBC, "Marcella" with ITV, and "Mae and George" with Channel 4. Even if Netflix just stopped overnight and said, "We're not co-producing any more, we want to go to the full-rights model", companies are queuing up to co-produce with the PSBs.

You can take your pick from streamers such as Amazon, which co-produced "Fleabag", and Acorn, which came in for "Line of Duty" in the US; Acorn is a US streamer that took over from Hulu. On top of the streamers, there are the broadcasters, as with "The Night Manager" which was co-produced with AMC, and HBO is now co-producing with the BBC "Gentleman Jack", a fantastic-looking period drama set in Yorkshire.

This story is confirmed by every piece of independent evidence that you will find. If we take Peter Kosminsky's worst-case scenario—the 67% rise since 2013—that would mean that the PSBs would have to find about £200 million extra per year for their drama productions. They spend about £300 million themselves per year, so 67% of that is £200 million.

From Ofcom's numbers for the amount of third-party funding which PSBs are raising for their own commissions, we see that they have nearly doubled it over that period. It has risen from £180 million to £340 million, which would give an extra £160 million per year. So we are almost at the magic £200 million figure that Kosminsky is talking about. The Ofcom figures do not include any numbers from ITV because ITV did not give Ofcom anything, which is another point that I would like to get into later.

With the UK's biggest commercial PSB figures added into that £160 million per year, you would comfortably get to over £200 million. That is further substantiated by the BFI's numbers, which show that, over the same period, domestic commissions accessing the high-end tax break—stripping out "The Crown" and "Game of Thrones" and looking primarily at PSBs along with Sky and maybe some high-end natural history—have risen by £200 million per year over that period. Every way you look at it, if, in the worst-case scenario that Peter Kosminsky was talking about, there has been this increase that has led to a £200 million gap, every piece of independent evidence says that PSBs are raising an extra £200 million in order to fund it.

The good news is that you do not have to take my word for it. Ofcom looked at this last year and in its communications market report says: "It is possible that Netflix and Amazon have led to increased costs. However, the increasing number of co-production deals means PSBs are strongly mitigating this and, in this climate, broadcasters have been able to access new revenue streams and so continue to produce high-quality drama".

Q87 **Baroness Kidron:** I just want to ask a point of information. What production period are you talking about?

Adam Minns: From 2013 to 2018.

Baroness Kidron: To be absolutely accurate, the evidence we have is that that has since changed and that companies are less keen to do co-production going forward. And just for the record, as you have mentioned his name a number of times, we had evidence from others apart from Peter Kosminsky that the production has gone north of £200 million per annum for very high-end drama.

I want to make that clear, because 2013-18 is a very different period from 2018-19 going forward, with some of the big announcements that have happened. I am not saying that anything you have said is wrong; I am just making clear that the evidence was about what is current and about going forward.

Alistair Law: We have not done too many co-productions with streamers, but as Adam said there is the possibility of doing co-productions with a variety of international channels, et cetera. We have three with HBO, various with Foxtel and so on.

Streamers are not the only game in town for us or the PSBs. On the BFI list of high-end TV tax credit productions, the 2019 list already shows a significant number of co-producers. The mix may be changing and Netflix may be doing slightly less, but others are doing more. Part of this comes down to windowing, as I am sure you will be aware. Primarily, PSBs will be interested in first-run, linear, original UK productions, and the global SVODs will look at global rights over a long period. As the dynamic changes, that might lead to fewer opportunities.

But I think as we have shown, from a UK perspective Sky is always interested in maintaining SVOD rights, because we have our own TV service, our own box sets et cetera. We have still been able to find a number of willing participants to do very ambitious co-productions and help meet the cost of inflations that we have been talking about.

Adam Minns: I went up to 2018. We are now in 2019, and this year the number of co-productions has increased even further and is only increasing. I saw the evidence from the producers, but I did not take away the same conclusion that you did—that co-production cannot be done. It is challenging, but it should not be easy. If it is easy, programmes get made that should not get made.

Every piece of public data that we have from genuinely independent sources such as the BFI and Ofcom says that the market is performing well, and that there is cost inflation but it is being met by extra third-party funding.

Viscount Colville of Culross: We are being told by the producers that they are having a really hard time getting co-productions, and that the BBC in particular is having a very hard time.

Adam Minns: The BBC is doing more co-productions than anyone else. It is difficult to comment on that without seeing the evidence, but I would ask them for their sources and examples of what is happening, because I do not think that the rest of the industry sees the same picture.

Q88 **Baroness Chisholm of Owlpen:** I would like to ask you a little about incentives. You talked about high-end tax relief. Do you feel that is having an impact on mid-budget productions? Should there be incentives for the commercial broadcasters and the SVODs in a contestable fund? Also, should Ofcom take the commercial broadcasters and the SVODs into account?

Alistair Law: I will start with the latter part of your question. We have long believed that the way the legislation sets out what constitutes public service broadcasting and public service content, and Ofcom's set of characteristics, is definitely fulfilled by content that is produced by those other than the PSBs, including Sky. There is a lot of frustration at the

tendency to take an institutional approach that merely counts those things shown on PSB channels, rather than having a much-wider appreciation.

We are investing significant amounts in UK original content, not because of an incentive that is regulatory or that is mandated from a legislative position, but because we understand that it is what our viewers want and value. In our submission, we set out that we are having tremendous success. Something like eight of the top 10 dramas showing on Sky channels at the moment are programmes that we have directly invested in and commissioned.

This comes back to the central point, one which the PSBs are also aware of and champion. Every piece of data that we see suggests that UK audiences like value and enjoy consuming UK content, content that is high quality, reflects their own experiences and reflects the world that they live in. That is why we are making the investments that we are, and why the SVODs are considering making further investments.

To answer your earlier question, so long as the outcome is that audiences continue to value UK content, you will see people flocking to try and do that, and trying to seek benefits as a result of commercial success. That is why we and the SVODs are doing it. The problem with a contestable fund or additional levy is that you add in transaction costs and more bureaucratic approaches that try to curtail certain practices, and I do not think that constitutes something that is additive.

On the question of tax credits, these can be immensely useful at amplifying investment in areas where there is known demand and a known level of consumption, making it easier to spend more in that area and produce a bit of programming more efficiently. Tax credits are potentially less useful for generating interest in underserved or less obviously commercially viable genres, but that is where your PSB obligations and requirements come into play, because then you can pull a different regulatory lever that says that the PSBs get the benefits over here of prominence, access to the Freeview spectrum and so on.

We need to get a set of obligations out of them. It makes no sense to focus these obligations on things which the commercial sector are doing anyway. They should be focused on areas where there is an underserving of programming.

The Chairman: Adam, do you have anything to add?

Adam Minns: Yes please, two points.

On whether Ofcom should take into account content from commercial broadcasters and SVODs, I would say absolutely yes in the case of third-party funding that is going into PSB commissions. We desperately need this. We are having this conversation today because we do not have clear figures that everyone can agree on telling us how much third-party funding PSBs are getting.

Ofcom published numbers last year. They asked all the PSBs how much money they were getting, and got figures back from Channel 5, Channel

4 and the BBC, but not from ITV. I have asked Ofcom why but have not had a completely clear answer. It seems that ITV did not want to give Ofcom those figures. I have not confirmed that, but it seems to be what happened.

It would be useful if this Committee could ask ITV or Ofcom what happened there, and whether Ofcom require more statutory powers to acquire PSBs to provide it with their figures for third-party funding. This will only become a bigger and bigger issue as more third-party funding comes into the system. It shows no signs of slowing down.

On that point, you said earlier that you are hearing a different story from PSBs. Last month, the BBC's controller of drama, Piers Wenger, said: "Netflix are still working with us on certain shows, but we are now forming strong partnerships with cable channels, including HBO, FX and AMC". Ian Katz, Channel 4's director of programmes, said very recently: "We have collaboration with Amazon, with Netflix, with Sky, with VICE. What has happened is that the challenges have caused us to tear up the rule book, and we are finding incredibly lateral ways to make things".

I just wanted to add that. Thank you.

The Chairman: We are beginning to build up evidence on this, and as the inquiry proceeds and we talk to more witnesses it is an area we will explore further.

Q89 **Baroness Kidron:** My question is very much a companion to the last one. Do you feel that there is a level playing field between SVODs and commercial non-PSBs? How do you feel about the regulatory environment from that perspective?

Alistair Law: It is not a level playing field. The rules that apply to SVODs are different from those that apply to mainstream broadcasters. At Sky, everything that appears on our SVOD service that is originally produced has been through the compliance process for the linear broadcast, and therefore complies nominally to a higher standard. We have a set of obligations as a result of that.

However, I do not necessarily see the difference between us and for example Netflix or Amazon as something that drives a seriously competitive wedge between us. I am not sure that there is a commercial non-PSB breaking business model in being able to apply lower standards therefore. On the whole, audience expectations are for a well-produced piece of content that does not shock in a way that people would find offensive, so they face the same incentives.

The huge gap, which now has the potential to be closed by virtue of the Government's online harms White Paper and the new AVMS regulation coming out of Europe, is in that peripheral category of video-sharing platforms, the likes of YouTube. When we talk about the future of PSBs and broadcasters as a whole, everything that I said about the prevalence of live and near-live viewing remains the case.

However, we accept that there is a significant difference for people under 35, which is not the likes of Netflix but more the length of time they

spend on YouTube. YouTube operates from a content perspective in a virtually unregulated world, so it can have negative consequences from a societal point of view. It can also have negative consequences on our democracy, so there is an opportunity, with greater levels of regulation, to bring those video-sharing platforms into something like the regulatory framework that we and video-on-demand providers face.

The gap between us and SVODs definitely exists, and it manifests itself in compliance, regulatory burden and so on, but it is nothing like the gap between those regulated entities and the likes of YouTube, which do have a competitive impact on us.

Baroness Kidron: Right. So without putting words into your mouth, you are not looking to close the existing gap between. Even though you have a different regulatory burden you are not worried about it, but you are looking for the online harms Bill and an AVMS decision—post Brexit, let us say.

Alistair Law: We would never shirk at the idea of an appropriate level of deregulation, but I am also not under the impression that that is necessarily likely to occur any time soon. As I said, we are guided by audience expectations, so even in a deregulated world we would continue to provide the same levels of standards and safety quality as at the moment if you dropped broadcast down to VOD, but we are not pushing it, because it is not a priority relative to the gap between, as you mentioned. The online harms White Paper is also hugely important.

Adam Minns: I largely agree. The difference between linear broadcasters and the SVODs is not so great, to be honest. They are subject to less regulation but they are still subject to regulation, and they have a 30% European content quota on them already. So I do not see that as a pressing issue.

Once you get into social media, it is a different story. There is a big debate going on. The ASA will tell you that social media are very well regulated and it is all over the advertising, but, to be honest, when I look at social media with my daughter, product placement seems to be out of control. I am more worried from a COBA point of view about that discrepancy getting worse, as Ali mentioned, primarily HMSS advertising. There is a big government consultation on a 9 pm watershed ban on broadcasters. If that were to happen it would need to be replicated in the online environment as well, otherwise advertising funding would just go from us to online, and that could be quite serious.

Alistair Law: Can I make a point on that basis, Chair, or are we going to return to this issue later?

The Chairman: We will come back to it, but perhaps you could make a brief point now.

Alistair Law: I talked earlier about the discrepancy in relation to content standards, but it absolutely remains the case that from an advertising perspective there is significant disparity between social media video-sharing platforms and others. Primarily from a broadcast perspective, we operate in an environment where a broadcaster has control of and

responsibility for the advert that is going out, and our licence is on the line every time that happens.

There is a system of pre-transmission compliance. We have minuted rules; obviously they are different for PSBs and non-PSBs, but nevertheless they are rules that restrict the amount of advertising that anyone can be exposed to. There is transparency about what advertising is being served on TV channels and to whom.

The Chairman: We will come back to advertising later. Let us move on.

Q90 **Baroness Kidron:** We have touched on the subject of the levy. For the record, we would like to give you the opportunity to say whether you would support the idea of a levy being put on subscription video on demand. In the event that you supported it, how do you think it should be distributed? Just for you, Ali, do you think Sky should be included in that?

Alistair Law: That would be my launch point. I have spoken about the significant growth in original content investment that we have made. We are almost certainly the fastest-growing source of investment in UK original content, us and other non-PSBs, and probably SVODs as well.

I would ask: how would a levy being put on the biggest source of growth in that area deliver public policy objectives of greater levels of investment in UK original content? Actually, it would just take away from the growing level of investment that we were making and, as I said earlier, add a whole load of transactional costs around setting up the process, administering it, choosing how it is distributed and so on, when by and large commercial incentives are delivering staggering levels of investment.

We would not support it and we would not support Sky being part of it through our provision of Now TV, because we think fundamentally that the sector is strong in this capacity at the moment. There is a loss of investment going in, and we and others are the source of growth for that, not the reason to take money away from them.

Adam Minns: Strangely, I do not support a levy. First of all, I do not think the case has been made that the PSBs have any problem at all in funding their own content. Even if we decided, "That doesn't matter and we want to introduce a levy anyway", if I were brainstorming ways to deter investment in the UK post Brexit, a levy would probably be right at the top of the list. It would go straight to companies' margins. It would be a disincentive for them to invest in all sorts of areas.

Those margins are not elastic—certainly ours are not—and a company would have to claw that back by reducing investment in jobs, their infrastructure or, perhaps most likely, their content budgets. At that point a levy becomes counterproductive, because it becomes a disincentive for SVOD players or whoever else is being levied to co-produce with the BBC because they have to make up for the lost revenues from the levy. On top of that, it would risk damaging plurality

for all the areas that I mentioned. I will not go through again, but they include commissioning, choice for audiences and creative competition.

Lastly, we already have two levies. There is the ScreenSkills levy, which applies to the high-end tax break, and the apprenticeship levy, which everyone over a certain payroll has to pay. The main issue here is that funding for content is not the problem; the danger now is that we are actually going to overheat. We need to invest in skills, and the way to do that is to get the apprenticeship levy working.

Baroness Kidron: We will return to that. If there were a proven case—I understand that you say that the case is yet to be proven—would you support an intervention, levy or not, towards supporting the PSB sector?

Alistair Law: We are not in a position where there is a proven case.

Baroness Kidron: I understand that. You have both said that.

Adam Minns: I would ask for two things: first, proving that there is a problem, which I do not think has been done.

Baroness Kidron: I absolutely understand that that is a precursor.

Adam Minns: Secondly, these companies, us and SVODs, are already commissioning UK content. That is not in question. If we were not, perhaps there might be a logic to it, but because we are I just do not see the rationale.

Alistair Law: I would focus on the outcomes of what audiences are able to access and watch, whether that is from the PSBs or otherwise. If they continue to love and consume UK content, that is public policy objectives being delivered.

Baroness Chisholm of Owlpen: There is a levy in Germany and France. Has that affected the SVODs in those countries? Have they stopped making programmes?

Alistair Law: I do not know the answer to that, but I am happy to go away, have a look and come back to you with some views.

Baroness Chisholm of Owlpen: Apparently that has been successful.

Alistair Law: The one thing that I would say is that Germany and France have a slightly different proposition, in as much as they are not English-language and their content may not speak to global audiences in quite the way that UK content does. I was purely speculating, but perhaps there is not as much investment coming from alternative providers such as SVODs or co-production via other channels.

Adam Minns: If you asked Netflix, it would probably say something like those levies not having incentivised it to increase its investment. I should also add that rumours of Netflix's support for a levy have been exaggerated. Netflix spent the best part of three years imposing a levy being introduced in the AVMS directive, and it was only when the company accepted that it was going to happen that it wrote to EU ambassadors and said, "Look, it's going to damage and harm us. If you're going to harm us, we'd like you to harm the rest of the sector as well by introducing it for everyone".

The Chairman: When we see Netflix, we can ask them to say that to us, or otherwise.

Q91 **The Lord Bishop of Chelmsford:** I want to ask about prominence. To what extent is reduced prominence responsible for PSBs' declining audience figures, particularly among under-35s?

Alistair Law: We have looked quite extensively at the evidence on prominence, and I do not think we share the view in the first part of your question that there is any element of reduced prominence. On the Sky Q platform, the PSBs are in prominent positions in the linear guide. In the catch-up menu, the PSBs appear above Sky's own content in the list of on-demand catch-up services available. We are at great pains to include them, going back to my original point, because we know that our viewers value watching them. That is the same for Virgin Media, BT TV, Freeview Play and Freesat.

Well over 75% of UK households that have connected platforms are using those that place the PSBs in prominent positions. With nascent platforms, as you might call them, such as Amazon Fire Stick or smart TVs, the approach is much more neutral: you often load them up and have to install apps of your own volition et cetera.

The Lord Bishop of Chelmsford: I am sorry to interrupt you, but is it not precisely those things that are the future? Particularly with under-35s, the television they consume is being consumed in very different ways from those you have described, where we would all concede that the PSBs have prominence.

Alistair Law: The point I was coming to is that those platforms are already showing an evolution towards greater levels of inclusion. They are realising the same thing that we as a platform operator understand, which is that viewers value UK content.

Take the Amazon Fire Stick. The newest version that came out in December last year now comes preloaded with the PSB players on it. A Samsung smart TV comes with BBC iPlayer preloaded in the top row. They are doing this because they understand that the consumers who buy this equipment will want and value those services as much as anyone else.

The problem of under-35s is slightly different and all broadcasters will have to face and address it in their own way. It is demonstrably not about the ability of people under 35 to find content; they are experts at being able to find the content that they want to watch. It is very much about the fact that the content they want to watch might come from a variety of different sources. I mentioned earlier the particular impact of YouTube in that area, which is massively overindexed for people under 35.

The PSBs will have to grapple with that in the same way that we will, but they show all the signs of doing so. It seems to be a priority for them as it is for us. It comes back to content. So long as younger people value the content, they will flock to it. While the content remains as popular as

it does, platform operators such as Sky, as well as newer entrants, will be incentivised to make it readily available.

The Lord Bishop of Chelmsford: Thank you. I am aware that the time is racing on. Adam, please answer the question, but it would also be good to hear your views on whether any further changes are necessary to make access to the PSBs more available.

Adam Minns: I agree with Ali that PSB services are largely prominent already in the video-on-demand world. I do not think that increased prominence will give the PSBs any more youth appeal than they already have. If that is what they are counting on, I worry.

The answer is about the content itself. Some of the witnesses in the earlier sessions were quite dismissive about social media content. I found it slightly depressing: they argued that children only watch this stuff because it is unregulated or because it is unchallenging. The truth is that, at its best, social media content is very good and speaks to children in ways that public service content, and maybe also non-public service content, does not.

Ofcom looked at this in its report last year, which Claire Enders cited to you. She talked about declining young audiences, but what I found interesting was why. Ofcom said that a lot of kids find this content appealing because it speaks to them; it is about their particular interests.

I can give you an example. My daughter is into gymnastics. She watches the BBC show "Gym Stars". It is very good, but it is a very different experience from what she will get on YouTube. "Gym Stars" is narrated by adults, who introduce each segment of the programme in an environment that is controlled by adults. She enjoys it. It is relaxing and she watches it when she is tired. But go to the YouTube vlogger and it is a young teen talking directly to the camera. It is crazy and fun. She will watch it for five minutes, do her cartwheels around the floor, then go back for five minutes and this time do a different gymnastics routine.

They are both good, they both fill something, and the response needs to be creative far more than reaching for more prominence. If we are going to give the PSBs prominence for video-on-demand, which I do not think is needed, it has to be done properly.

I will give you an example. I love "Channel 4 News". I think it makes a fantastic contribution to our society and is arguably the best thing that the PSB system does. But when I go to All4—Channel on demand—I cannot find "Channel 4 News". I look on the home page and it is not there. I look on the category sections and there is no news section. To be clear, this is once I have found the 4oD service. I am in it, but I still cannot find the news. In the end, I have to type in "news". If I am lucky, depending on the time of day, one episode of "Channel 4 News" will come up.

If we are to give PSBs prominence for their video-on-demand services, we also need to give Ofcom powers or a duty requiring it to make an appropriate range of PSB content, such as news, prominent within those services.

Alistair Law: On the second part of the question, the only area of Sky services where the PSBs are not prominent is where they have not given us the content in the first place.

We cannot include BBC content on our Sky Go or Sky Q mobile apps, because the BBC allow it to play out only on iPlayer. So you have a list of linear and on-demand services with the BBC at the top but, if you click on them you cannot access BBC programming, whereas we have been able to do deals with ITV, Channel 4, Channel 5 et cetera.

The answer has to be to ensure that the PSBs are incentivised and required to distribute their content as widely as possible. The BBC's approach to YouTube is traditionally to put short clips up. It seems to me that that could be an area where it could massively increase its presence, if that is where people are watching.

The same applies to what I have just said about the Sky platforms. We would love to be able to carry their content in a variety of different places. At the moment, we are not granted the permission to do so.

The Chairman: We have one final question, which I ask you to answer very briefly, although you may follow up with further written evidence if you want to elaborate on it. Lord Allen.

Q92 Lord Allen of Kensington: I am required to declare my interests. I am the chairman of Global Media & Entertainment Group, I have a declarable-interest shareholding in ITV, and I am chairman of Moelis & Company, which is an advisory bank.

Mr Minns, I was quite surprised at the bullish view that you took on commercial public service broadcasting. Other evidence you have given has demonstrated a series of headwinds which I would like to enumerate quickly. These include declining audience and reach, with a 6% decline in audience in 2018 alone, which has been a trend, as well as significant increases in production costs, which we touched on earlier, particularly the costs of getting to young people.

The third issue, which you flagged, is of HFSS potentially costing the industry a couple of hundred million. There are also dramatic increases in online advertising, and we have been evidence that television advertising as a proportion of total advertising could halve by 2025.

All that seems to be in conflict with the rosy picture that you presented. Are you saying that no strategic interventions are required for PSBs, and particularly commercial PSBs, to have a long-term future? If so, I am surprised.

Adam Minns: No, I am not saying that at all. There is a decline in linear viewing, particularly among young audiences. We have set that out in our response. It is not a cliff edge, it is a slow burn, and the response in order to reach those young audiences, as I was saying, should be creative more than anything.

Look at the example that Jeanette Steemers gave you in one of the first sessions, about NRK, the Norwegian public broadcaster, and what it has

done with its kids' show "Skam". It has had a fantastic response, with record audiences, and has gone into a fourth series, and there has been a US remake. That was by embracing the creative lessons that came out of social media. NRK put "Skam" content online that is a million miles away from its own website. It has no branding on it, which would put kids off. The show is at the end of the week, and each day in the run-up there is a piece of short-form content or a blog that builds up. NRK has learned from—

Lord Allen of Kensington: That is important, but coming back to the key point of the share of advertising revenue halving by 2025, how will the commercial PSBs cope with that? I know we are short of time, but maybe you could give that some thought. We are hearing very conflicting advice and would welcome your input to that debate.

Adam Minns: Strategically, regarding on demand and what needs to be done in the PSB framework, we have talked about prominence and what might be done there.

There is also an issue about the PSB compact, which needs to be modernised for the video-on-demand era. The PSB compact contains the balance of duties and benefits that PSBs get. Ofcom works out that EPG prominence is worth X and therefore equivalent to 20 hours of regional news, or whatever.

When digital switchover happened, Ofcom considered that there was a value not just for the main PSB channel but for the other portfolio channels from cross-promotion. At the end of "The X Factor" on ITV there will be a request to watch "The Xtra Factor" on ITV2, which Ofcom also factors in.

That now needs to be done for video on demand. The same benefit occurs: you watch a drama series on ITV, and at the end it will say, "Have you missed an episode? Go to the ITV Hub and catch up". If we can get that right, it could unlock the value of video on demand for the future of the PSB licence and perhaps give you enough money for a modest children's service, or something like that. There are policy and market challenges, but PSB is doing well in output numbers, investment—

The Chairman: We have got your point. If you want to add further illustrations of some of the policy interventions that you think may be appropriate, please do so. We would like to hear from you. Ali, would you like to wrap up on this?

Alistair Law: On the advertising point, I talked earlier about the difference in regulation between online advertising and broadcast advertising. We would absolutely support action in that area, because there is such a wide disparity. TV advertising is not dead, though; it still accounts for about 95% of video advertising that people see at the moment, and the figure is 75% even for people under 35.

There is an exciting opportunity, not necessarily through a policy intervention approach, for the best aspects of online advertising to be replicated in TV through things like—talking from my own book,

obviously—Sky's AdSmart service, which allows for targeted and addressable advertising to smaller groups of households rather than the mass approach that occurs otherwise. There are evolutions in the advertising market that I think will sustain it against the headwinds that you have identified.

On HFSS, you are absolutely right: beyond any level of policy intervention where people are discussing levies or changes to prominence and so on, taking out close to a quarter of a billion pounds' worth of advertising revenue from the sector as a whole, not just the commercial PSBs, would clearly have an impact.

We work very closely with the commercial PSBs on this. We have looked at the evidence, which suggests that children's exposure to HFSS at the moment would be eliminated by a 9 pm watershed ban is absolutely tiny. Even the Government's own impact assessment suggests that it would mean a drop of 1.7 calories per child—half a Smartie, or something like that.

We as an industry would collectively question the proportionality of that as an intervention. Again, if there is a recommendation in any final report, looking again at the policy interventions in that area would be immensely helpful.

The Chairman: We ought to close there. Thank you to both our witnesses. You have given us some interesting evidence that we can explore with further witnesses, and we may well come back to you for further clarification. If you want to add anything on the last question, please write to us. Thank you for giving evidence today. It has been very useful for the Committee.