HOUSE OF LORDS

Communications Committee

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

Tuesday 4 June 2019

3.30 pm

Watch the meeting

Members present: Lord Gilbert of Panteg (The Chairman); Lord Allen of Kensington; Baroness Benjamin; 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. 13 Heard in Public Questions 115 – 123

Witnesses

I: David Bouchier, Chief Entertainment Officer, Virgin Media; Steve Holebrook, Managing Director, Terrestrial Broadcast, Arqiva; Craig Melson, Programme Manager, techUK.

USE OF THE TRANSCRIPT

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

Examination of Witnesses

David Bouchier, Steve Holebrook and Craig Melson.

Q115 **The Chairman:** Can I welcome our witnesses to our House of Lords inquiry into the future of PSB? I am sure our witnesses have been following our evidence. We have been looking into what the future holds for PSB in this fragmenting media era, and our witnesses today are on the tech side, from Virgin Media, Arqiva and techUK. I will ask our witnesses to introduce themselves in a moment. Today's session will be broadcast online, and a transcript will be taken for the Committee's evidence and published online.

Could I ask our witnesses to say a few brief words of introduction about themselves and their organisations, and at the same time start us off by giving us an overview of the changes that are taking place in the distribution and consumption of television?

Steve Holebrook: Thank you for inviting me. Arqiva is the network service provider and distribution provider for many of the broadcasters in the UK. We operate the DTT network and provide satellite distribution and services on the internet and fibre, so we have experience in all those areas, supporting both the PSBs and the commercial broadcasters.

For an overview of changes in distribution and consumption in the UK, it is probably worth starting by taking a step back and looking from a TV perspective at which distribution platforms are used in the UK, their relative scale and size, and how that has changed over time. The largest platform in the UK is DTT; it is Freeview and the derivatives that work on DTT, such as YouView. That reaches 19 million homes in the UK. There are about 12 million homes where it is on the primary TV set in the living room, but on the secondary or third set, in the bedroom or kitchen for example, it is 19 million homes in total. That is compared to pay satellite, which is 8 million homes; cable, which is about 4 million homes; and Freesat and IPTV, which is about 3 million homes.

DTT is the largest platform in the UK. Over the last three or four years, contrary to expectation, with SVOD services launching and things like that, the Freeview platform has actually grown. The number of households that use DTT has grown by about 800,000. People have churned away from the Sky platform generally, abandoned the higher-cost pay services, and taken the cheaper service of Netflix or Amazon plus DTT.

On the question of how things have changed most recently, over the last three or four years DTT has become more important as a platform in the UK.

In terms of consumption, we see that people are viewing more video than ever. Now that we have smartphones and tablets, people effectively have televisions in their pocket or in their bedroom. That is driving up consumption all over the market. On average, a UK person watches about 300 minutes of video per day. That includes TV. That is video on demand, Facebook, YouTube, DVDs and cinema. About 65% of that is linear scheduled TV plus TV playback. If you look at how that has changed over time, 10 years ago TV consumption was about three hours 30 minutes, and now it is about three hours 10 minutes, so it has been quite robust and resilient over that time.

In the intervening 10 years, we have seen the improved performance of the UK broadband network, which is delivering additional services. That is where the volume growth has come—from video-on-demand services. At the moment, video on demand represents about 40 minutes of those 300 minutes of consumption. I have some charts, if that helps, to show you the breakdown of that consumption. Video on demand is growing, but in comparison to linear and near linear, the linear and linear-type services are five times the amount of video consumption versus video on demand.

The Chairman: If you have some graphics, it is probably easier for you to send them to us afterwards. We will publish them as part of our evidence and circulate them to members of the Committee.

David Bouchier: Good afternoon, everyone. I am Virgin Media's Chief Digital Entertainment Officer, and as such I am responsible for and lead the team that provides the TV, online entertainment and VOD services within Virgin Media. Virgin Media is one of the largest infrastructure investors in the UK. We are the only dedicated telecoms network outside Openreach. We are a national network and independent from the old Post Office network that is now administered by Openreach. We have 6 million cable customers in the UK and Ireland, and 3 million mobile customers, including the 4 million pay television customers that Steve mentioned.

We started Project Lightning in 2013 to fire up the UK and improve broadband speeds in the UK. That project is now past 1.7 million homes, and 86% of that build is now full fibre broadband in Q1. We now have a basic speed that goes from 100 Mbps to 500 Mbps, which is faster than other networks by a country mile. We are about, on average, 10 times faster than other widely available network. We have contributed significantly to that improvement in the broadband speeds for the UK, as recognised by Ofcom.

As you can probably tell, we are very proud of that investment and it is integral to why we are a very good on-demand platform. A superfast broadband connection gives you true interactivity, which allows you to have a true on-demand experience. As Steve said, as the demographics change from linear to on demand, having a robust, reliable and superfast connection is the best way to watch an interactive TV experience.

As for being a pay television operator, we regard ourselves as an integrator of services. That goes to the first question about how viewing and distribution has changed. I started my career about 25 years ago, working in pay TV for pay TV operators, including working at Sky in the UK, Germany and Italy, and working for pay television channels, including setting up and running channels myself. I am very aware of how the consumption of linear has changed and how the importance of pay TV linear diminishes as consumers migrate to a platform of mixed services (i.e. SVOD) and linear channels. We bundle linear channels and charge for packages of channels, starting with a basic tier of pay television and going up to a premium tier of channels, which includes, customarily, premium sports, such as Sky Sports, or premium movies.

What has changed in the methods of distribution over my career is that we have moved from being an aggregator of channels to being an aggregator of services. That does not mean there is not a significant and important role for linear in that environment. As Steve has said, our viewership of linear television is still over 70%. We identify two distinct cohorts of viewers, though, which is a very new development in TV distribution. We call them 'linear-first viewers' and 'online-first viewers'. There is a distinction between their viewing habits that is really quite remarkable. Online-first viewers tend to be younger, but in a very short space of time the majority of their viewing now becomes non-linear, so they go direct to a non-linear video-on-demand experience.

The linear-first audience is, as Steve has said, very robust. Some 80% is expected to watch linear first. Of the 20% which isn't linear viewing, 80% of the viewing is still to the broadcaster through their catch-up services, so these customers are still driven by a linear schedule. They are watching the catch-up of that linear schedule.

That compares with the online first group, who would not recognise a linear schedule. They do not expect to watch a series of programmed shows, and they do not recognise the concept of recording programmes, because recording itself is also part of a linear environment. Even in that environment, as we will hear later, the PSBs have remained very resilient. They are still the go-to place to watch. They are still the majority of viewing, even for that online-first cohort. Some 78% of households in the UK will have watched both an online experience and a linear experience.

The other point I would make on the evolution of distribution is that we now have the arrival of SVOD services, which are pay services where you pay for a monthly subscription. Even in that environment the PSBs and the linear channels are active. There is a very current discussion about BritBox, and ITV has a premium paid-for service for its catch-up player called ITV Hub+. If you look across Europe, we have the highest consumption of VOD in the UK not only because we have a high penetration of Netflix and Amazon but because we have extremely high usage of the broadcasters' video-on-demand catch-up players.

The challenge for the PSBs, which I am sure we will come on to later, is to ensure a seamless and coherent customer experience across those players and VOD services. There is a danger at the moment that they are somewhat siloed and that they create walled gardens. You have to enter into the BBC's world in iPlayer, where you are only furnished BBC programming. Only BBC programming is suggested to you. You can only search BBC programming. You then have to exit that environment, and, depending on your equipment, having to go in and out of inputs can be a very cumbersome experience. You then enter ITV's environment, and you have to exit that environment to go into Channel 4's environment.

If you look at the evolution, we would say that the challenge for the PSBs is to find an integrated experience for the customer. We would encourage them to make that development.

Craig Melson: TechUK is the trade body for the UK tech and digital sector. We have 900 members, ranging from big global online payers, to platforms, to manufacturers of devices, to companies innovating in new technologies such as cyber, AI, broadband, data centres, financial services and the like. My role at techUK is programme manager for the digital devices programme, which looks at media policy and broadcast distribution, and the related services you get on top of that. The community of members most interested in this topic tend to be the manufacturers of TV receivers, the network service providers, some of the pay TV platforms and, indeed, some SVOD providers themselves.

In terms of the changing distribution technologies, we have gone from a world of analogue to digital, and then from digital to upgraded digital which lets you see HD and soon-to-be ultra HD. We are also now seeing more of it online. The result of the changing media landscape is that we are going from needing to watch something when it is on to having complete control over what we watch. This has not resulted in a decrease for the PSBs. I think Ofcom said that 71% of all AV viewing is linear—watching telly when it is on. The SVODs and other providers are coming in and augmenting what the linear broadcasters are doing, providing customer choice and entertainment when people want it. We have moved from a situation of not being dictated to by having to watch TV when it is on, to having complete control over what you watch and where.

In terms of consumption, we are seeing consumer-led revolutions in the way we watch content. We are watching it on a broader range of devices. We are watching it over a broader range of technologies. We have a very vibrant and successful DTT platform, but we are seeing pay TV going very strongly. We are seeing new innovations in the bundling of services and new advertising models, but we are also seeing SVOD providers and catch-up players offering original content. Overall we have a much wider supply of audio-visual content in the UK.

Q116 **Lord Gordon of Strathblane:** This question is specifically for Mr Holebrook first, but others please come in. People tend to regard platforms as neutral, but I rather detected from Arqiva's evidence that you felt that DTT was more akin to a public service environment than the other network systems.

Steve Holebrook: There are a few different flavours that use the DTT network. There is Freeview, which is a joint venture that we are part of, with the PSB broadcasters. There is YouView, which again is the PSB broadcasters and us, plus BT and TalkTalk. There are two flavours of it. Freeview has an open platform. The service is universally available to 98.5% of the population. That is how it reaches the 19 million homes I mentioned. It allows people to come on to the platform, and then we abide by the prominence rules, allowing the PSBs to gain the prominence that they get through their licences.

We, with the other shareholders, have invested recently in doing one of the very things David talked about: giving viewers a seamless experience. We recently launched Freeview Play, back in 2015 or 2016. We worked with lots of the manufacturers to come up with a technical spec that brings all those services together and allows people to search in the platform so that they can get recommendations on VOD. It also has the EPG, which protects the prominence of the PSBs and allows people to go backwards in the schedule for seven days. If they know they missed something last night, they just go backwards in the EPG, click on the programme, and it seamlessly brings up the programme for the consumers. That is doing very well as a technology, and over 6 million units have been sold in the last couple of years. We believe that DTT protects the prominence and we are very keen to make sure that is beneficial to the PSBs.

Lord Gordon of Strathblane: Are you fairly confident that DTT will survive, or is it threatened in any way?

Steve Holebrook: We absolutely believe in the strength of DTT. First and foremost, we put the PSBs right at the heart of it, and the vast majority of viewing in the UK is on PSBs. The service is free and freely available, so it has that strong benefit. We must not forget that 3 million homes in the UK do not even have broadband, so they cannot transition on to services and they cannot benefit from SVOD. This is the only platform that is available to those homes.

Lord Gordon of Strathblane: When we visited the BBC, it said it would be capable of switching to IPT in 2022 and would certainly do it by 2032. That would surely leave you without a major customer.

Steve Holebrook: That would be a problem, yes. I would be surprised if we saw the movement of people in that sort of timeframe. As I said, in the last three years it has gone in the opposite direction: 800,000 more homes are using DTT than before. Without government intervention, I cannot see how you would turn off DTT in the 2022 timeframe or even beyond that.

Lord Gordon of Strathblane: But is a transfer of spectrum away from broadcasting not due very shortly?

Steve Holebrook: We are working on the 700 megahertz clearance programme. Over the last few years, we have improved the efficiency of the DTT platform. We are handing the 800 megahertz spectrum and the 700 megahertz spectrum to the mobile operators so that they can launch 5G. From what we hear from the mobile operators around the world, that spectrum is now as much as they need to penetrate deeply into buildings. Going forward, they need broadband spectrum that gives them extremely fast bandwidth, and that is not the spectrum we occupy. As far as we are hearing, the requirement for further spectrum below 700 megahertz is diminishing. They are looking up at the 3.4 gigahertz to 3.6 gigahertz spectrum for the future.

Lord Gordon of Strathblane: My final point relates to DAB and the completion of the network. Quite naturally, you cannot put up transmitters in uneconomic areas unless you have a fair lifespan for them. Have you been given assurances that you have that lifespan, and will the DAB network be completed?

Steve Holebrook: We are very hopeful that the DAB network will be completed. We have spent the last few years rolling out significantly more coverage. The BBC is now up at 97.5% and the commercial broadcasters are beyond 90%. The commercial broadcasters are already at equivalence—

Lord Gordon of Strathblane: But as you know better than I, the last mile is the most expensive one.

Steve Holebrook: Yes. DCMS recently announced a radio review next year, which we are going to take part in. The industry is coming together to look at plans for the future of radio and how we turn off analogue, potentially, and roll out additional DAB services. I think we will have a clearer picture in about a year's time.

Q117 **Baroness McIntosh of Hudnall:** I want to ask you about the future of linear viewing. You have all, in different ways, covered that, but I want to ask you specifically, Mr Bouchier, if you would start. You have identified these two cohorts, the linear first and the online first. Based on what you said, common sense would predict that the linear-first lot will gradually die out and the online-first people will become the majority and subsequently the only cohort. That will happen. Within the online-first cohort now, do you see a disposition to go back towards linear for any reason? If not, what is the future as you see it, or as any of you sees it, for linear viewing as we currently understand it?

David Bouchier: It is an interesting question. Does someone's behaviour when they are young continue to be their behaviour when they are older? The jury is out on that. We do not know yet whether they will change their behaviour. The first point I would make is that it is such a young, dynamic group. We do not know, as they move to that older cohort, whether their viewing habits will change.

The other point is that, if you look at a typical week on ITV, last week we had the semis and the final of "Britain's Got Talent". More sub-30 year-olds will watch ITV in a week than will access YouTube in the UK. Even though they are active online and they are online first, if the PSBs provide programming in an environment that is both appropriate to the screen they want to watch and the sort of content that engages them, they will retain that audience. That audience is there for ITV and for the BBC. The challenge for them is how they migrate and follow that audience.

Baroness McIntosh of Hudnall: I understand that point, but there is a tension between what you said in your earlier remarks about the need for the PSBs to, as it were, open up their walled gardens, not be quite so protective and not require people to interact with them in a particularly restricted way, and the provision of the special kinds of service that are currently available through linear television viewing. If, for example, that cohort of young online people want to watch "Britain's Got Talent", at the moment the only way they can watch it is by watching it on ITV.

David Bouchier: But it is ITV in all its flavours, and that is the power.

Baroness McIntosh of Hudnall: Yes, but the first base for it is the event on the day. Is that correct?

David Bouchier: Yes, and that draws out another distinction. There is a type of programming that by its nature lends itself to linear.

Baroness McIntosh of Hudnall: That is what I wanted you to get on to.

David Bouchier: When we come on to the second question about the future of broadcasting, the national networks here, in Europe and in the US have gone through a number of revolutions of TV and have weathered those storms very effectively. The British PSBs, as I alluded to at the start, have migrated. They have adapted. They have created an online environment that means that if you want to watch something that lends itself to online and something that lends itself to catch-up, you can watch it. Linear first means, for example, big sports events, news events, big shiny floor shows where the family comes together. The audience that ITV got, or the audience that BBC got for the final of "The Great British Bake Off", compare remarkably well with the early days of television, in the 1970s, when "The Morecambe & Wise Show" would get something like 14 million viewers. That is a remarkable achievement for the PSBs. In an environment where there is a plethora of different ways to view, they can still demand mass audiences in the UK. There is only one way to do that, and that is through linear television.

Baroness McIntosh of Hudnall: This is my last question. That suggests that certain kinds of television that do not depend on the event's real-time nature will not necessarily be the things that public service broadcasters will need to focus on if they are going to retain the audiences who want to watch in that way. I am thinking specifically about drama, which is coming into our various devices from a number of sources, including the PSBs but also the SVODs, and in the main does not depend on you being there at the time.

David Bouchier: It is interesting. In the TV industry, you try to create a sense of occasion. You try to get the buzz. Nothing gets the buzz like a linear outing at 9 pm on a Sunday night. When Netflix started, it put all its series in boxsets and you could binge. It was the same with Amazon and the SVOD services in the US. That is a very expensive way to go about dumping drama, when it is a couple of million and more per hour. Now you find that they have started to drip feed some of the big ticket SVOD dramas into their library on a weekly basis. The PSBs and the linear services have the advantage of being able to do both. "Killing Eve" starts next week, I think, on the BBC.

Baroness McIntosh of Hudnall: Yes, Saturday.

David Bouchier: Yes, exactly. I am glad we have another fan. I understand that the BBC is going to play it out linearly and provide a boxset on day one, partly because it was commissioned in the US. I think you have had a lot of evidence about the very buoyant state of co-production in the UK. "Killing Eve" is a great example of that. It is a commercial part of the BBC, is commissioned in the US, airs and premieres in the US, but is available, effectively at a discount, to licence fee payers in the UK. I understand that part of the reason why the BBC is using this mixed ecosystem of a linear outing and the full boxset on day one is because a lot of people have been trying to see it from the US. This flexibility, this ability to create an event, is unique and persistent in the linear model.

Baroness McIntosh of Hudnall: Would it be fair to say that your message on the subject of the decline of linear TV viewing is not to panic?

David Bouchier: That is a fair summary.

The Chairman: Mr Melson, did you want to add anything?

Craig Melson: The linear schedule is full of standout moments that dominate our national conversation, including in sport, but especially in drama. I believe the "Bodyguard" scene won a BAFTA for best audience moment.

David Bouchier: Can I say that that was the Virgin Media must-see moment? We sponsor the BAFTAs.

Craig Melson: That shows that if you get the content right, people will flock to it in the format that you present it in. It is all about getting the content right. We saw the kinds of mixed distribution models that we are seeing with the BBC with some of the dramas last year, the likes of "Hard Sun", "Requiem" and others. They were making the boxset available and also showing it on linear. It shows that there is a really strong culture in the PSBs of innovation and experimentation; that they are willing to try out new things. That is a really good example of how they are adapting to new pressures that were not there before. We should be celebrating that.

Q118 **Baroness Kidron:** I wanted to return to the question of prominence, so I might start at this end, because I think I know what you are going to say. First, could we establish from each of you whether you think that PSB prominence is important, just as a factor, if you are a PSB?

Craig Melson: Yes, absolutely. Prominence is important. It is vital for getting current affairs, news and information out there. I believe the Ofcom *Media Nations* report said that TV was still the most trusted form of current affairs analysis. We think in the DTT platform prominence has to stay for the PSBs. We would like the HD channels to be more prominent within that, so you have BBC One HD and BBC Two HD at the very start, rather than further down, so that people can see the content in its best possible form on their devices.

We think the online environments are the space where innovation should take place. With the consumer expectation between the linear DTT platform and the smart TV sticks and set-top boxes, in those online environments there should be more freedom for the manufacturers to differentiate their products accordingly.

I should say that, in any smart TV interface, the core UK catch-up players will be pretty prominent. They will be front and centre, because they are so important to UK viewers. It is just that if you try to mandate regulation or prominence in those environments, you remove the flexibility to innovate in those areas. If you go to any smart TV, you will get iPlayer, ITV, All 4, 5 on demand all pretty high up on the list.

David Bouchier: Prominence is a very big question. I suppose I would ask for a bit of definition. Are you talking about linear prominence or prominence for programmes?

Baroness Kidron: We are talking about PSB content in its entirety. Picking up on what Craig has just alluded to, we know how it works currently, but as both the audience moves into different environments and the environment itself changes, so you may have voice prominence, different screens or different environments, is prominence important enough to the PSBs? Is it central to the idea of having a PSB?

David Bouchier: It is central to the idea of having a PSB. I must stress that this refers to linear prominence. The PSB regime has three components. It has free spectrum for a PSB, content obligations for that PSB and prominence entitlements. I would add the other one, a "must offer", so in the market they must provide that service to all platforms without charging a fee. Those are the four components of linear prominence.

What if you take prominence out of the linear environment? I will come on to that in a second. Is linear prominence of importance? Yes, absolutely. Do we, like DTT and other platforms, adhere to the Ofcom code on prominence? Yes, absolutely. You will always find the PSBs at the top of that EPG. That is an immensely valuable bit of real estate that they get for nothing. I can tell you that in the last couple of years we were able to auction off one of our high EPG numbers, and it was acquired by a PSB group, because it is the PSB group that can monetise it most effectively. That has a significant value to them. The channel that they moved up to that EPG number saw an exponential—that is exaggerating, but it was significant—increase in its audience. Linear prominence is absolutely part of the PSB compact and has value.

The difficulty is if you start to extend that concept away from linear. You have two definitions. Do you then say, "We are talking about prominence of VOD players", or do you then make the other jump, which is to say, "We are not only talking about prominence of the players, we are talking about prominence of the programming within those players"? It is the third component that is the most difficult. As soon as you start to disaggregate the linear channel, you ask, "If it has the stamp of being a PSB, as Channel 5 does, with the lowest threshold of obligation when it comes to content as a PSB, is it appropriate that 'Cruising with Jane McDonald', for example, should be promoted above 'Portrait Artist of the Year' on Sky Arts"? You start to get into very difficult areas.

If you overlay on top of that the recent Audio-visual Media Services Directive, which requires prominence for European-produced programming, the challenge we will face is the user experience. If I search in my Freeview box, or our box, for "Riviera" on Sky, for example, is it appropriate that I get "Gentleman Jack" as a BBC suggestion? That is an overreaching of the PSB compact, because you suddenly have an intervention into the programming that is not consistent with a good customer experience.

You also have another challenge in that you then have to look at the individual programme. You have to divorce it from the channel it is on. In those circumstances, every broadcaster, including Discovery, which is a sister company of Liberty, makes fantastic public service-esque programming. It is not a public service broadcaster, but if you are giving prominence to that type of programming, logically you should provide that same prominence to all broadcasters. It is a very complicated area.

Baroness Kidron: Thank you for explaining something rather complex in a very simple way. I want to thank you for that, but I would like to push you a little. Let us imagine a world in five years, 10 years, whatever—I am not putting a time limit on it. In due course, if we get to a world in which we go to non-linear first for the vast majority of people, as we work towards that world, what happens to that real estate for nothing, as you said? It is not real estate for nothing; it is real estate in exchange for obligations.

That is the key point. I am beginning to understand that you are saying there is a balance between the obligation, where it lies, how it manifests to the viewer and the benefit. Equally, there is a question: if we let that benefit slide because it is slightly complicated, slightly inconvenient to device manufacturers or to new environments, we may also see that real estate disappear.

David Bouchier: There is a middle ground. I talked about the nature of PSB attaching to the programming itself, and that is immensely complicated. The middle ground is the PSB players themselves. If we talk about the prominence in a stack of apps, or the prominence in an environment for video viewing services, at the moment we carry most of the PSB apps in some shape or form, and those apps are at the top of our catch-up service and the top of our viewing app section. That is being done not through any formal regulation but because it responds to customer need.

For the 70%, 80% or more who want to watch linear programming, their catch-up service is predominantly "Coronation Street", "Love Island", "Britain's Got Talent", national network shows that people follow into the catch-up environment, we follow what our audience wants. Our audience wants those services laid out in the same way as they see it in the linear world. That is being done not with regulation but with the power that the PSBs have in the negotiations with us. It is not something we particularly push back on. Going for a middle ground on prominence, and talking about the players themselves, it is working quite effectively. You will see it on other platforms in the UK.

Baroness Kidron: I am slightly worried about the "at the moment" point.

Steve Holebrook: Through their licence, PSBs have quite hefty obligations, whether that is universal coverage, which is expensive in itself, and the free-to-air capability not to charge for that, or the content, the quotas on local news, and all those types of things, which they have to meet. That has been put on those licensees for the benefit of society here in the UK, so we need to recognise that. For that to be economic for them and to have the right impact for society, prominence is essential.

On the DTT platform, we certainly do everything we can to support the prominence of the PSBs, whether that is through the linear EPG and how that is presented, through the positions of the players and how they are presented, or through recommendations and all those types of things in the new platform we have developed. We absolutely believe that prominence is essential.

Baroness Kidron: Do you have any sympathy for David and the complexity of the problem he put forward when he said that when chasing prominence in a disaggregated world you might end up giving it to the wrong kind of programming, whatever that is, or programming that does not require the support?

Steve Holebrook: When you get down to the programme level, it becomes quite difficult. Who is deciding whether an ITV programme is more prominent than a BBC programme or a Discovery programme? Ultimately, who is the arbitrator of that? Do you have to hire an editor who has compliance rules, and all those types of things, in order to do it? It is very difficult. You absolutely have to protect the prominence of the players and attribution when it comes to those contents being seen as BBC content and ITV content where it is appropriate.

Baroness Kidron: The obligation and the prominence go together.

Steve Holebrook: I believe so, yes.

Q119 **Viscount Colville of Culross:** Steve, we are increasingly seeing deals going on between manufacturers of television sets and SVOD providers. My television controller has a button for Netflix, for instance. That is an extraordinary amount of prominence that they are getting. Should we be concerned about that and that it is disadvantaging PSBs in the speed of access people can get?

Steve Holebrook: That is a very interesting question. We might have a slightly different view, I imagine. From a Freeview perspective, as I have said we have launched the new platform, Freeview Play. We have worked quite collaboratively with the vast majority of manufacturers around the UK. It has not necessarily been easy. It has not fallen into our lap. We have had to work hard with all but one of the manufacturers, but we have done quite well and have been quite successful in achieving what we wanted to achieve with those guys in a partnership arrangement. Despite the lack of regulation, despite the economic thing of global providers of equipment and local UK requirements, we have managed to achieve quite a lot.

Would regulation have helped and got us there quicker? Probably. We are not universal, so the one manufacturer that we are not on with for Freeview Play is Samsung. They do an equivalent type of thing, so they have the players, but viewers do not necessarily have the same experience, and they do not get the backwards EPG capability and those types of things. We have done quite a lot through the PSBs working together as part of Freeview to develop the platform and being proactive in that type of thing.

When you move beyond the traditional TV manufacturers and start looking at the FAANGs—Facebook, Google; those guys—which are now coming into TV, it might be a lot more difficult to guarantee that type of prominence, because of the scale of what they are and who they are.

Craig Melson: I am not sure about you, but when I turn my TV on the default is that channel one on the DTT broadcast receiver comes up. Some of the manufacturers go into global agreements, which helps to bring down the price and improve their competitive offering in the marketplace. We see the SVODs not replacing linear TV content but augmenting it. You can have linear television, but having the option to have it there is obviously seen as enough of a consumer benefit for these agreements to be struck. It is just that the option is there.

The consumer choice has never been so strong. The Ofcom *Media Nations* report said that the majority of viewing on a TV set is still the linear schedule on the EPG. They are also carried on the main Freeview Play, which is an absolutely fantastic service. That gives prominence to the PSB catch-up players, via the backwards EPG—being able to access those catch-up services when you rewind. It is just down to consumer choice. They are there because people want them, essentially.

Q120 **Viscount Colville of Culross:** I declare an interest as a series producer at Raw TV, making content for CNN. I would like to ask you about PSB broadcasters being more available on different devices and different distributors. David, you talked about the BVOD walled garden. In your submission, Craig, you talked about the suggestion that PSBs should be able to self-certify so they could be available on more devices. Why should that be so when iPlayer is already working very well? Why are you concentrating on the PSB BVODs when we have walled gardens with all SVODs? We have walled gardens with Netflix, Amazon and, I imagine, Apple TV+ when it happens.

Craig Melson: For most of the catch-up players, you get the compliance and the authorisation to use them when you get the Freeview trademark licence. When a TV manufacturer applies to Freeview—"I want to carry your service on my device"—they will get all the main PSB players, with the exception of iPlayer.

We have some specific concerns about the compliance process. The procedures for getting iPlayer on your device are pretty strenuous. Sometimes they go a bit above and beyond what others do, which can make it a bit slower. I do not want to criticise the BBC in any way. They have recognised some of these areas and they are working with us to reform and streamline the process so that you can bring changes and bring those iPlayer-enabled devices to market more quickly. They are looking at some of the SVOD ones. Do not get me wrong; they are equally as strenuous. They want to make sure that they have a working player product on these devices. It is just that the BBC procedures specifically are quite a bit trickier than others'.

Viscount Colville of Culross: Is that just a technical issue?

Craig Melson: It is a technical issue, yes. The BBC, quite rightly, wants to make sure that the iPlayer service works perfectly on all the compatible devices that it says it can. Sometimes that means that they overegg the procedures and testing on a technical level compared to others. That can slow down some of the bringing to market of the devices. They have recognised this a bit. They are working with us. We have a pretty engaged community and regular dialogue with the BBC to help to identify and overcome some of these issues. We are pretty encouraged that our concerns have been heeded on this.

David Bouchier: I would develop that point. It is a technical hurdle that we have to get through, but it is a problem which the BBC has made for itself. It has decided that we must trade prominence for immersion. In the on-demand world, prominence for BBC programming is not sufficient. There is only one way you can get that programming, and that is entirely and exclusively in iPlayer. This is unique with the PSBs. The other PSBs provide their programming into our VOD service as programmes.

The BBC requires not only that we do not get delivered the programme, but that we offer our customers the experience of seeing that programme in, and only in, iPlayer. As a result, when we go to the customer experience, not only do we have the technical requirements of always having to fulfil all the requirements of iPlayer to get any BBC on-demand programming, but our customers cannot, for example, get a single search result that allows an aggregated viewing experience, because you have to go into iPlayer.

If you get a recommendation in iPlayer, it is entirely for BBC programming. They have extended prominence and replaced it with immersion, and they have taken the customer experience, with a plurality of search and recommendation opportunities, and replaced it with an exclusive BBC silo. That is unique among the PSBs. To my point earlier, in an on-demand environment where you want the PSBs to be non-siloed against the power of the FAANGs, that is a short-sighted approach.

The other point I would make, to develop your point at the beginning, is that we can talk about prominence when you enter the screen and you switch the TV on. If you have, as this remote has, buttons that have Netflix and Amazon already inside them, this entire discussion becomes irrelevant. You have already jumped into a world where prominence will not even be available. When you look at commercial leverage and how those negotiations operate among all platforms, you have to acknowledge that there is some fairly heavy leverage for the FAANGs.

Viscount Colville of Culross: Surely you cannot aggregate Netflix's programmes either, can you?

David Bouchier: Netflix is not a PSB.

Viscount Colville of Culross: No, it is not a PSB, but it is a walled garden.

David Bouchier: It is interesting that you say that. Netflix's initial approach was to say, "No, you must come into our environment", and they would make it the devil's own job to leave it. Now, in a competitive world, which is, as I said before, predominantly PSB BVOD, they understand that they need to be able to promote their programming. As the third-party licensors such as the studios, the BBC and ITV have taken their programming off Netflix, Netflix's own created content is now the majority on their platform, so they need people to know about it. They have now started to open APIs, which is the interface that allows us to have search functionality across the platform.

Viscount Colville of Culross: Steve, do you have a view on this?

Steve Holebrook: Yes. From our perspective, within that Freeview and DTT environment we position the prominence there. We enable search, so if your customers cannot get it you can get them a Freeview Play TV, if that helps.

David Bouchier: I was not talking about search. I was talking about once you were in the BBC environment. This is unique to the BBC.

Steve Holebrook: From our perspective, the way we have worked with all the PSBs within the Freeview Play environment delivers all the service and functionality that is required. You can search across all the players. The metadata is there to enable that to happen and to present that to the viewers.

Viscount Colville of Culross: Is there an issue with the BBC particularly trying to maintain exclusivity over its copyright by having this? It is not just the technical issue, is it? Is it not some sort of copyright issue as well? They are trying to maintain exclusivity of benefit.

David Bouchier: It is a commercial decision. We are here to talk about prominence. There are ways of extending prominence, and one way of doing that is to require you to enter into that world and only that world. As I say, uniquely, the BBC has taken that approach. Then we get the technical requirements that come with it, because there is only one flavour of iPlayer, the standard iPlayer. That does not follow from the PSB compact. The other PSBs have not taken that view.

The Chairman: We had better move on. I am afraid we need to get up a bit of pace as well, as we still have a few questions to go. Thank you for that. They were very interesting questions.

Q121 **Baroness Quin:** It might help progress if I say that I think that part of my questions have been addressed, so perhaps you could approach them in the spirit of just adding anything you feel has been missed out. This question follows on from comments we have had that PSBs have been fairly slow to respond to changing viewer habits.

How do you feel that public service broadcasters' video on demand and other online services could better appeal to audiences? I take on board the comments that have already been made about a cohesive customer experience and so forth. Within that, do you have any comments about the regulatory regime? Does that allow PSBs to adapt to the changing environment?

Craig Melson: First, we do not have a view on how they can better appeal, but it is about better understanding their audiences, segmenting appropriately and offering the content that viewers want across the diverse range of audiences they are trying to serve. Having a really good understanding of their audience is probably the key way of doing so.

We would also look at the new technical specs. The BBC, as far as I know, is the only PSB that is now trialling 4K UHD content. We have seen that with some trials and experiments last year, but on the SVODs 4K is routine now. If you have a 4K device, which pretty much dominate the device manufacturer sales these days, the SVODs are offering that ultra HD content. The PSBs are a bit slower in that way, so they could catch-up on making things present and look in the best way possible.

On the regulation point, the PSBs have created fantastic products. The iPlayer is a British tech success story. It is world renowned. It is a fantastic product. The others have also done great jobs. Almost the entire Channel 4 back catalogue is on All 4. It is a really good innovation. This has been done without needing to regulate and in a way that looks at what people want, what the SVODs have done and the incredible content they have created through the years, presenting it in a new way, being willing to develop and trial new services.

Since iPlayer was created, its use has gone through the roof, in an increasingly fragmented market. If you go to the app stores, the core UK PSB players are generally the most popular. If you go to the smart TV interfaces, they are always on the most viewed, downloaded and searched for apps. They have adapted very well, and long may it continue for them.

David Bouchier: Adaptation is exactly the answer. I think I said in opening that we have the largest consumption of VOD in Europe, and that is because of the PSBs and other players. It is not just because Netflix and Now TV have big penetration; it is because the PSBs have adapted.

To answer your point about where they could have a better customer experience, I believe that the silo, the immersion, is counterproductive. In a world of ubiquitous content, our customers are asking for a coherent codification, an easy route that allows them to get the best programming that they can, and 70% of that viewing is the PSB content. Anything that inhibits or restricts their ability to get to that programming is counterproductive. If they could find a way to integrate between themselves, that would benefit the licence payer and the customer.

Steve Holebrook: I have exactly the same points. People desire PSB content. Back in the 1980s, there were only four channels on TV. PSBs have adapted tremendously well when there are hundreds of channels on TV, yet 70% of the viewing is still to the PSBs and their portfolio channels. They were the first in the market with video-on-demand services back in 2007; 4 on Demand and iPlayer launched then, so they were innovators and they got in there.

For the future, it is about making it easy for people to consume that. Also, they need to look at the demographics and see if they are doing enough, from a content perspective, for those younger demographics, who seem to be more interested in watching things on YouTube. The other day my daughter showed me a clip of a man who likes to put plaster cast on, even though he does not have a broken arm. I do not understand why my daughter wants to watch that, but that is the type of content they are viewing when they are 11 and so on. PSBs need to open their minds to what these younger groups want to watch and whether they are serving them well enough.

Baroness Quin: Do any of you have any thoughts about the prospects for BritBox?

David Bouchier: The PSB compact starts with and was originally ended with broadcast. Then the PSB window went to seven days, which is when iPlayer first launched. Then the PSB window went to 30 days. Then we had a secondary market where the commercial broadcasters could get access to PSB programming and the PSBs themselves monetised that secondary window. The BBC jointly owned UKTV. ITV had a number of pay channels. They sell their programming into the market post that PSB window. There was a 12-month holdback, the purpose of which was to make sure that the programming was not used goods by the time you asked customers to pay for it.

There is a very delicate ecosystem of windowing of rights that starts with the PSBs' first and privileged position in broadcast and continues into their first and privileged position with windowing in their catch-up player. One of the challenges with BritBox is that if that PSB window is effectively extended, as certain PSBs are lobbying for, you will have a rather unappealing customer proposition, where on day 364 you can get it for free but on day 365 you are asked to pay for it.

It is a very complex and difficult issue. If you over-deliver in PSB window, you start to damage the commercialisation, whether that is BritBox or linear pay services. It is difficult. BritBox succeeding is not a question of whether there is excessive competition from the FAANGs. There also has to be a very clear understanding of how those rights are valued.

Craig Melson: It is an extension of consumer choice. It is up to the individual to decide whether another player it is a valued proposition. You are right: we have the issue of the expiration of rights. BBC Studios, which I believe used to be called BBC Worldwide, is leading on the development for BritBox. It already has home entertainment divisions for a lot of these products. If you can put them elsewhere, why not? Good luck to you, if it extends consumer choice.

We need to see the specs and design requirements, some of the rules and regs, so we can start looking at how to get the native players built on to next year's models. I believe the plan was for it to come out in late 2019. We are almost there on product development, so we would urge them to come forward with their distribution plan so that we can help them succeed with that.

Q122 **Baroness Chisholm of Owlpen:** I wanted to ask you a bit about regulation. We heard from one witness that the difference between linear broadcasters and SVODs is not so great as far as regulation is concerned. It is just that one is more than the other. Then we heard from Channel 4 that, once programmes were available on Netflix, sometimes Netflix branded them as its own original content. Channel 4 was no longer mentioned, which meant that the PSBs' brands were being undermined. Should further regulation be imposed on subscription and on-demand services? Leading on from that, should regulation be used to guarantee attribution of content for the public service broadcasters?

Craig Melson: On your specific point about something being classed as a Netflix original, that can be solved by a contractual agreement, which can be between the PSB and the original production company. "Bodyguard" was a really good example of collaboration. It was made by ITV, shown on BBC, and globally the rights were held by Netflix. That is a really great example of collaboration.

In attribution, the availability of metadata means that the device manufacturers and network operators can say, "This is clearly a BBC-owned piece of content. We can show that with the appropriate logo and licence". We need them to let us help them by sharing the kind of data that can show that attribution.

On the wider point about regulation, we would not support further regulation of SVOD services because that would reduce consumer choice and slow down the availability of content. We are also in such a changing media environment that the regulation you can come up with in 2019 may not be appropriate by 2021 or 2022. In 2007, we had only just got iPhones and iPlayer. It is evolving so quickly, the regulation might not be as quick to adapt as changing consumer expectations and the industry.

David Bouchier: I would endorse that. It is not about more regulation; it is about consistency of regulation. If you look at aspects of the requirements for advertising, advertising shown on linear and UK licensed SVOD services is regulated ultimately by Ofcom. That is not necessarily the case for online only services. From a customer point of view, and particularly when you are talking about protection of minors or other harm, labelling or attribution of content, those rules should be consistent.

When we contract with owners of content, so the PSBs in particular, a very significant part of our discussion is about proper attribution, which means that we can only use the right images that are provided for and cleared by the owner of the content. We must provide the right branding. That branding must be of the right size and in the right place. There is a minefield of attribution that we must follow, because, as you can imagine, maybe one PSB wants it in the top right and someone else wants it in the top left. Attribution is very, very important. It is covered currently in those discussions. On levelling the field, that is what we would say. It does not require further rules, but it needs to have coherency.

Steve Holebrook: I agree with the point about attribution. The PSBs have the capability to do commercial agreements when they are providing their content to those people. It is just dependent on the quality of their agreements that they sign up to.

The point about regulation is slightly different. When it comes to the FAANGs and how they are producing a global platform, there is an argument that government could ask Ofcom to undertake a review to see whether there is a requirement for further regulation across those aspects. It is such a big field and there are lots of things to consider. It probably requires a look at it, just to see whether any further regulation should be used.

Baroness Chisholm of Owlpen: That is interesting.

Lord Gordon of Strathblane: Just briefly, it seems to me that attribution is extremely complicated, because there are so many players involved in the making of a programme nowadays. Who do you attribute "The Night Manager" to?

David Bouchier: In the PSB environment, it is the channel.

Craig Melson: It tends to be the channel as the original rights holder. It is just that the information needs to be there. In an example highlighted by one of our members, we had two instances of the same content: one PSB-provided, which was in HD, and an SVOD in UHD. The requirement required them to show the PSB content in HD. The consumer probably wanted the best version of that content according to their device and their internet connection, which might have been 4K, but that had to deprioritised due to the agreement. It is a complicated set of variables.

David Bouchier: It is. Where a particular programme is working through those exploitation windows, you can find yourself with something like "Top Gear", which could be on Dave, on BBC2 or in Netflix. You could populate the image and obliterate the faces of the presenters with the number of channel attributions.

Craig Melson: There is a common-sense way that has been used by some: if you are searching for something, that happened to be on in the last week and is on the catch-up player, you are shown that. The consumer expectation has led the way on that. They probably want to catch-up on the thing that was on most recently, but that did not need regulation; that was just thinking about the customer demand and the actual needs of the customer.

Q123 **Lord Allen of Kensington:** I am required to declare my interests. I have a declarable shareholding in ITV, I am chairman of Global Media & Entertainment, and I am advisory chair at Moelis & Company, which advises media companies.

Picking up on something Steve started to touch on, a number of witnesses have said to us that the regulation of video-sharing platforms is not balanced versus SVODs. What should we do about it? Should there be more regulation of the video-sharing platforms, or do you have other thoughts or ideas?

Steve Holebrook: Again, technology moves on at a tremendous pace, and people often use those platforms for what they were not originally considered for. It might be worth asking Ofcom, within a review of SVOD and the platforms, to look at whether there is a need for any additional regulation to make sure we understand how to protect not just the PSBs but the consumers on what they are looking at.

Lord Allen of Kensington: David, you touched on consistency. Do you agree with this approach?

David Bouchier: Yes, exactly. Here, consistency is the essential answer. A very good example is Saturday night's Champions League final. We were fortunate enough, I should say, to have a relationship with BT Sport, so we had the Champions League final. On the Sky Q interface, the first thing you saw was the Champions League final, and you could view it through YouTube. I can send you a screengrab. It is a very good example of the complicated convergence now of all this programming. To me, if I am sitting in my home using my Sky remote and I press a button to watch a football match, it is inconsistent to say that it is subject to rules that are different from the next programme that was highlighted, which is Sky Sports football.

Lord Allen of Kensington: Why would they have done that?

Steve Holebrook: It was free on YouTube. All the customers could access it, whereas if you just subscribed to BT Sport only those people would have access.

David Bouchier: Craig gave the example of productions from ITV that appear on the BBC, and indeed "Good Morning Britain" comes from the old BBC Television Centre. All the old orthodoxies are changing. Having SVOD services available on pay TV platforms and promoted right next to PSB programming, with Champions League football matches available through a video-sharing service that is sitting on a pay platform, says to me, "The customer does not know", just as they do not know when we deliver our broadband services whether it comes over our cable, or Openreach's cable. They do not know where this programming is coming from. There should be consistency.

Craig Melson: The consumer expectation of a video-sharing platform, where a lot of content is self-generated and more short form, is vastly different from what they would expect from iPlayer, a linear platform or indeed an SVOD. I do not think you can consistently regulate Netflix in the same way as you would regulate something like YouTube, Vimeo or Dailymotion.

We would advise having a consistency of approach as well, making sure that all the bits of legislation fit together, rather than going off on a tangent. The likes of Amazon Prime are regulated by Ofcom. They are content providers. They exist in a very different commercial and operating environment than a video-sharing platform, so I do not think you can regulate one effectively and expect the outcomes that you want from the other.

Baroness Chisholm of Owlpen: I do not understand. How did they manage to get it on YouTube?

David Bouchier: I can show you a screen grab of the Sky interface. I said at the beginning how my business has matured from aggregating channels to aggregating services. Pay platforms now have the ability to host the YouTube app in their ecosystem, and because, as we discussed, it was available free to air, and via YouTube, customers of Sky were able to watch it through their Sky set top box.

Lord Gordon of Strathblane: That must knock paying for football rights for six, to take a mixed metaphor.

David Bouchier: We could talk about cricket rights. We could talk about sports rights. There is an interesting question about sports rights, particularly for things like UEFA Champions League. There is a premium value. The Premier League matches, for example, are all available on pay. For a lot of sports, having an outing in free, particularly at the end of the championship, is very valuable, because it keeps it in the minds of the general public. You will quite often find that something that is predominantly available only to pay subscribers for premium sport will not be available for the finals. For Formula 1, for example, the British Grand Prix will be on Channel 4 even though Sky has all the other Formula 1 motor racing championships. It is quite a common way of doing it, because you do not want to be forgotten.

The Chairman: You are not talking about pirated content being available. It is legitimately there.

David Bouchier: It is not only legitimate but promoted by them.

Craig Melson: It is a condition of sale for that round of licences. When BT Sport bought the rights to the Champions League, that was the condition: "You have to make the final freely available. You cannot hide it behind a paywall", and that was the preferred solution.

The Chairman: That is very interesting. That was a very interesting session. Thank you to our witnesses for lending us your expertise, which has been really useful to the Committee, and for the written evidence you have sent to us. Thank you.