

Communications Committee

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

Tuesday 11 June 2019

3 pm

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

Evidence Session No. 14

Heard in Public

Questions 124 – 130

Witnesses

[I:](#) Simon Albury MBE, Chair, Campaign for Broadcasting Equality CIO; Sir Lenny Henry CBE, Actor and Producer; Marcus Ryder, Chief International Editor, China Global Television Network.

USE OF THE TRANSCRIPT

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

Examination of Witnesses

Simon Albury, Sir Lenny Henry and Marcus Ryder.

Q124 **The Chairman:** Good afternoon. I would like to welcome our witnesses to this hearing of the House of Lords Select Committee on Communications into the future of PSB. Our witnesses today are well known in the television industry. The focus of our evidence today will be on diversity, but our witnesses may well address a wider range of issues affecting the industry on which we are focused. Before I ask our witnesses to say a few words of introduction, I remind them that the session today will be broadcast and a transcript will be taken.

We have with us Sir Lenny Henry, Marcus Ryder and Simon Albury. Thank you very much for taking time to be with us to give us the benefit of your experience and your evidence to this important inquiry. I will ask

each of you to start with a very brief introduction to yourself and your overarching views on the issues we are discussing. Perhaps in your opening remarks you could give us an overview of changes that are taking place in TV production, including the impact of new streaming services. Shall we start with Simon Albury?

Simon Albury: My Lord Chairman, I thank the Committee for inviting me to give oral evidence, but I do not want to say very much today. The harvest is plentiful, the labourers are few, time is short. I have come from Willesden Green, but Marcus Ryder has come from Beijing. I have given you more than 5,000 words of detailed written evidence and recommendations, so I rest my case for not saying too much in the next hour.

But in opening I want to tell you about a couple of key landmark events in broadcasting diversity and quote from a couple of people who have inspired me. People wonder why an older white man like me is so passionate and so fiery on the issue of BAME employment in broadcasting. I am fiery, because I hear from a stream of people who experience racial discrimination and injustice. I am passionate, because in the 1960s I was a volunteer in the US civil rights movement in the safety of Cambridge, Massachusetts, but I lived through Selma, and I learned, crucially for us today, how President Johnson saw equality not just as a right and a theory but as a fact and a result. Off-screen, equality as a fact and a result is what we are missing in our programme making.

At the March on Washington, I heard Martin Luther King deliver his "I have a dream" speech, but I have never forgotten that at the top of his speech King talked about "the fierce urgency of now" and about "a promissory note" that was returned marked "insufficient funds". That is the prism through which I view broadcasting equality. Off-screen for BAME employment there is no "fierce urgency of now". We have had a stream of promissory notes, which were rarely backed with even derisory funds, with one exception, which I specified in my evidence to this Committee in 2015 in paragraphs 104 to 107. That exception is referenced in footnote 40 in my latest written evidence.

This is the exception: when Channel 4 started, Jeremy Isaacs was the first chief executive and he hired Sue Woodford as the first multicultural commissioner and gave her sufficient funds. What was the result? It was the first quick flowering of BAME production companies, BAME programmes and BAME talent: "Eastern Eye", "Black on Black", "The Bandung File", "No Problem!" and "Desmond's".

Too soon, Sue Woodford left to go to America with her husband Clive Hollick and too soon Jeremy Isaacs was replaced by Mark Thompson, who came from the BBC. Mark Thompson stopped the funding and closed the department, which was then headed by Farrukh Dhondy. It was like spraying the garden with weedkiller—everything died—but for a few short years, Jeremy Isaacs, Sue Woodford and Farrukh Dhondy had shown what could be done with vision, commitment, urgency and sufficient funds.

In contrast, let me turn to the BBC's diversity action plan of October 2000, which I asked the clerks to circulate. The impressive measures in this plan were never backed with sufficient funds. They were quickly forgotten and were sometimes brutally abandoned. Page 5 says: "We are already committed to achieving overall minority ethnic employment levels of 10% by 2003".

The latest BBC data shows that BBC Studios, which the annual report describes as a vital pipeline of talent, has not hit reached that 2003 target of 10%, and at the current rate of increase it will take more than 40 years for BBC Studios to get to 14% BAME employment, by which point the UK population is projected to be above 20% BAME. So from 2000 we are looking at more than 60 years for BBC Studios to match even today's current percentage of the BAME population. What do we want? Funding. When do we want it? Now.

Let me finish with some words from Martin Luther King's "How long? Not long" speech. It is the speech King delivered to the marchers from Selma when they finally reached Montgomery, Alabama. I have shortened the ending. King said: "I know you are asking today, how long will it take? I come to say to you this afternoon, however difficult the moment, however frustrating the hour, it will not be long because you shall reap what you sow. How long? Not long, because the arc of the moral universe is long, but it bends towards justice". My Lord Chairman, "If not now? When?" Hillel.

The Chairman: Sir Lenny, welcome. Follow that.

Sir Lenny Henry: Good night. You have been a great crowd. Please tip your waitresses. That was fantastic.

I am here today speaking as someone who has worked in the television industry for 40 years. Once again, like Simon, I am raising the alarm. As far as true diversity and inclusion are concerned, things are terrible. Only 36% of film directors are women. Only 3% of people working in the British film industry are BAME, while only 0.3% of the UK film workforce are disabled. In many ways, telly is worse. "EastEnders" is set in one of the most diverse cities in the world, yet only 1% of its directors are BAME. Just 2.2% of UK TV is directed by BAME directors. Of the 100 top indies, only one is led by a BAME person.

What can we do to increase true representation in television? As Simon has said, the bottom line is that it is all about the bottom line: how television is financed, its economics and who decides how programme budgets are spent. It could be argued that there are three simple things we could do to solve this. We can either make broadcasters ring-fence funds to protect diverse productions and programmes in exactly the same way that Ofcom makes broadcasters ring-fence funds for important genres like news and out-of-London productions to increase regional diversity.

We could create a contestable fund in exactly the same way as this vision in yellow, here on the Committee, Baroness Floella Benjamin, through the round window, has championed the need to encourage the

growth of children's programmes to protect against the threat of youngsters deserting home-grown broadcasters for US streaming services like Netflix. Or we could use tax breaks to encourage people to invest in diverse productions in exactly the same way as the Treasury has used tax breaks to encourage the growth of the British film and TV industry in general.

Would it not increase regional diversity by putting more training schemes in Wales and Manchester? Broadcasters would put real production money behind that, and we have seen regional diversity at the BBC grow as a result. We did not increase children's programmes by thinking that commissioners are prejudiced against children and making them go on an unconscious bias training scheme. We did not achieve the amazing growth in the British film and television industry by giving producers mentors.

That is why Directors UK, BECTU, Women in Film and Television and Indie Club representing independent productions outside London have all signed an open letter calling for tax breaks for diversity. It is also why over 100 influential figures in film and television signed an open letter to the broadcasters calling for ring-fenced money for BAME productions. The time has come to take real action, and I sincerely hope that today we can give you the information you need to help you make the right decisions.

Thank you so much for letting us come to judges' houses.

The Chairman: Thank you very much for that. We look forward to hearing further from you in a moment. Marcus Ryder.

Marcus Ryder: I will be brief. Five years ago, Lenny and I sat in a room very close to here giving evidence to a parliamentary Select Committee. We said then that Ofcom, the broadcasters and the Government must find a way to address the economic issues around diversity. We are here today because those economic issues were not addressed.

What was addressed was more training, more mentoring, more diversity schemes and more publications about diversity, but the actual fundamental economic and business model was not. They have stolen my thunder by talking about different parts of the economic model, so I am not going to repeat that.

Sir Lenny Henry: Oh, go on, repeat it.

Marcus Ryder: But what we can see when we look at regional diversity is that we are able to solve diversity. In 2007, just 3.3% of BBC network programmes were made in Scotland. It is now 11%, with an equivalent spend of £90 million. Over 50% of BBC programmes are made outside the M25. That is good not just for the BBC. Because the BBC has done that, Channel 4 can now move, because it sees that the industry can move outside London. There is a multiplier effect.

The BBC, Channel 4 and Ofcom can solve diversity. We have seen them solve the lack of diversity, but they did not do it, as Lenny so eloquently put it, by looking at mentoring and other schemes. They looked at the

economic problems. What I think all three of us want to get across today is that we have to look at the economic models of the industry and how we can use them and change them in order to solve diversity problems.

The Chairman: Thank you. Okay. We will do that and we promise that we will let you have first crack at some of the questions. Shall we move on to Lord Gordon, as we want to talk about the role of PSBs in producing content?

Q125 **Lord Gordon of Strathblane:** I suspect that I know the answer, but how well do you think public service broadcasters are doing on the diversity front at the moment? If you just want to say, "Not very well", we will take it at that. We will start with Marcus.

Marcus Ryder: Ofcom has produced an excellent report, commissioning Canton Media Services, which I am sure that most, if not all of you, have read. The headline is that they are not doing well. The other report I would urge everyone to read is *Mind the Viewing Gap*. It was written by digital.i, another industry research group. It shows that, on average, people watch PSBs 50% of the time. When it comes to black people, they watch PSBs only 40% of the time when they watch television. When it comes to Asians, they are watching them only 32% of the time, as they are watching other channels. So you can see that ethnic minorities are leaving PSBs in their droves. It is exactly the same crisis that we had with regard to children's programmes.

Lord Gordon of Strathblane: Can I press you just a little on this? Part of the problem might be the funding model. In the paper that you and Sir Lenny offered us in the last couple of days, you say that a lot of it has to do with the subscription model of the SVODs: that because they have a subscription model, they are happy to target various minority groups, as it adds to the overall subscription base. How can the BBC cope with that?

Marcus Ryder: It can cope with that by concentrating not on audience size or specific programmes but on reach. Sometimes the BBC does concentrate on reach, but it needs to prioritise that more. That is how it can do it very easily. For example, the BBC's head of strategy has just criticised Netflix for not publishing its audience ratings. However, having rolled out BritBox, the BBC and ITV should not criticise Netflix for not releasing audience ratings, which it does occasionally; it should copy that model and publish reach instead.

Lord Gordon of Strathblane: Do you think that a public body, publicly funded, such as the BBC could for a moment get away without publishing audience figures?

Marcus Ryder: It depends on what you are talking about. If you are talking about the BBC launching its own streaming service, BritBox, the priority must be the number of subscribers and the number of people who are willing to pay for quality content by the BBC. That should be the measure, and it is the measure of all SVODs. I am not suggesting that it should not look at audience ratings for its terrestrial channels, but going forward it should definitely do that.

Lord Gordon of Strathblane: Sir Lenny, is there anything else that you think the BBC and other PSBs could learn from the SVODs?

Sir Lenny Henry: The reach issue is incredibly important. I am here to represent the 67%. The Office for National Statistics data and the Government estimate that only 32% of the UK population are white, able-bodied, heterosexual men, which means that the vast majority of us fall into what we often term “diversity”. Yet that 32% is all too often considered the norm.

We cannot have public service broadcasting that does not reflect the lives, concerns, values and views of the vast majority of the population. Our purpose should be to do what Shakespeare urged in “Hamlet”, which is to hold a mirror up to nature, to our society, reflecting its true qualities. Unfortunately, in the British film and TV industries it can feel impossible at times to achieve what we want, which is true diversity and true representation. A properly representative group of people should be at the table, which is the idea of reach. We are an island of many perspectives, not just one, and we should honour that.

Simon Albury: I am a student of Marcus’s writings. I always boil things down to something simple. Marcus is saying not that you should not publish ratings—given BBC funding you of course have to have the ratings—but that you should not be trapped by them, because there is a conflict between reach and ratings. To reach a wider audience, you may have to have a trade-off in ratings. Is that right, Marcus, or have I got it wrong?

Marcus Ryder: No, not absolutely.

Simon Albury: Oh, thanks.

Lord Gordon of Strathblane: I think, to be fair, he was making a distinction between traditional BBC programmes and BritBox. You publish ratings for BBC1, BBC2, BBC4, et cetera, but you would not publish them for BritBox. I thought that was the distinction you were making.

Marcus Ryder: That, too. I am glad you are both able to articulate it so eloquently.

Sir Lenny Henry: You have just been mansplained.

Q126 **Baroness McIntosh of Hudnall:** When you talk about switching the models, so that you go away from just counting towards thinking more about quality and where you are going, what you are reaching into, do you think that is entirely to do with the broadcasters themselves, or is it to do with how they are regulated?

Marcus Ryder: I am not sure, to be honest with you. Having worked at the BBC for 24 years, you came into work with your head high if you knew you got high ratings: it was a culture of wanting to get high ratings. I was not worried about getting high ratings because of Ofcom or, at that point, the BBC Trust. The culture was one where your programme was deemed successful or not.

Baroness McIntosh of Hudnall: So you would say, based on what you

know, that it is in your own hands to put things in place that would change that culture, by changing the measures?

Marcus Ryder: The head of content of Netflix, when he was interviewed, said that one reason why they do not want to publish their audience ratings, although occasionally they do, is because it is very hard for the producers then not to look at ratings.

Baroness McIntosh of Hudnall: Yes, do not read your own reviews.

The Chairman: I am interested in this issue of what really matters at the BBC. If you talk to broadcasters at the moment you get the sense that what really matters to them is attracting young audiences: they are not always talking about ratings, they are talking about attracting young audiences. So they can have a different mindset, they can think about numbers other than ratings, can they not?

Marcus Ryder: In my experience, it is normally an “and”. In my experience very few producers want to sacrifice high ratings: they want to get high ratings and a young audience.

Q127 **Baroness Benjamin:** Good to see you three guys here. My question is about production staff. Several BAME high profile producers and production staff have recently left the BBC. Should that be cause for concern? How well do you feel public service broadcasters support talent and production staff from underrepresented groups?

Sir Lenny Henry: They are not doing a very good job, actually. Two years ago I gave a speech in this very building about fake diversity, which is the practice of increasing diversity on screen but not increasing our presence behind the camera. To use an American expression, this is like putting lipstick on a pig—we have all been there. No one is fooled. My company, Douglas Road Productions, recently did a BBC4 drama series about the Windrush generation and the amount of positive feedback I received from people who felt that their lives were at last being represented on screen was immense. But that is only one part of the story.

I want to show you a picture—I do not know how I am going to do this—of the writers’ room for that show, because it pertains to what Floella is asking about: the people who work behind the camera, the production team. I will pass it round, because it is very different to the normal back room that you would see in a normal television series. As the CEO of a BAME-led production company, nobody had to tell me to do this, it was just the natural thing to do. When you lose BAME producers, you lose that in the room. It is the idea of being at the table, having a seat at the table and being able to influence what gets made, how and why. It is a powerful thing to have a diverse group of people around the table, because you can literally move worlds if the right people are there.

The Chairman: I just want to picture this, because it is quite important. Thank you, it is very powerful. Could you describe it briefly?

Sir Lenny Henry: I will describe it for the people who cannot see it at home. It is a very representative group of black and brown and white

and male and female people all packed in a room and smiling because they are doing something that they really want to be doing and they are really proud to be there.

When everyone is included in the storytelling process, the stakes are raised. We want to get it right and do our best to represent ourselves truthfully. If we can do that, it is a win-win for everyone concerned. We have already been nominated for two awards for this series and, as I say, people have been genuinely moved by it. It was something that needed to happen and I am so proud that we were able to produce it with this group of people.

Baroness Benjamin: What are the BBC and other PSBs not doing to keep and support that talent? What more could they be doing?

Simon Albury: There is something that I thought I would not raise today, but it is important. Around two months ago, I wrote an article about racial discrimination and witless ethnic cleansing at the BBC. It took me a long time to publish it, because some of the things mentioned in it involved people who were so damaged that they did not want it to come out.

I do not know whether it is pockets of the BBC—it is probably not the whole of the BBC—but there are serious cases of racial discrimination at the BBC. I would say that in most organisations there are no effective mechanisms for dealing with them. Grievance procedures are a very poor mechanism.

Baroness Benjamin: What evidence do you have when you make a statement like that?

Simon Albury: What I have is people who came to me. Actually, I first met them on the night of the BBC's Nelson Mandela lecture. Two people came to see me. Their experiences were pretty bad. One of them had been off sick and, as a result, bringing a grievance had lapsed in legal terms. The other one, I think, is in the course of bringing a grievance case. Another one, after I had seen those two, described her situation, and this is what affected me: "I can't tell my parents, because when they came over they suffered from racial discrimination. I do not want to give them the pain of knowing that I am suffering it now".

Generally in organisations, there are no good mechanisms for dealing with it. What I now encourage people to do is to whistleblow. You can whistleblow to a director, which is probably better than a grievance procedure. I do not know how widespread it is. Since I published the article, other people have come to see me. Some of them are in dispute with the BBC.¹

This is less important because it is about money rather than being treated badly, but I was due to be part of the court case of someone whose case was that as a senior person they were being paid £20,000 a year less than their white counterparts. The case that ran on, I think, for three years. Then, in the last few days before it was due to come before

¹ Note by witness: There are others who are not in the BBC.

the tribunal where I was supposed to be a witness, there was a settlement and the person is now happily working in the BBC. Of course, we cannot infer much from the settlement, because as I understand it no case of racial discrimination at the BBC has got to a tribunal since 2002.

This is a difficult one. What I would say is that good mechanisms need to be brought in; whistleblowing may be the way; I do not know how many cases there are—the BBC legal department probably knows, and I do not know if the non-executive directors know. There is no more I can say.

Baroness Benjamin: Have people come to you with grievances about having to reapply for their jobs even though they have been in them for several years? Have you had cases like that?

Simon Albury: I have not had a reapply case, no.

Marcus Ryder: Can I move the discussion on a little bit, because I worry about focusing on the BBC. Less than 50% of programmes at the BBC are made by BBC Studios. All Channel 4 programmes are made by indies, as are the vast majority of ITV and Channel 5 programmes. So when we are talking about the industry, even though BBC Studios is very important, I do not think that we should concentrate too much how it is doing or employment practices within the BBC.

I would prefer to concentrate on how we support people working in indies. If you look at Lenny's picture, you see that the talent is there. Douglas Road, a BAME-led indie, was able to find diverse talent easily for its *Windrush* series. Finestripe, a female-led indie, produced a series of films about women's suffrage and it had 90% women behind the camera. That goes in stark contrast to the stats that Directors UK give you about how difficult it is to find women. Finestripe have 50% BAME staff behind the camera. You can find it.

When I was an executive producer at BBC Scotland, for the current affairs programmes on the Scottish referendum which I looked after, over a third of the key roles were BAME staff. Where there is a will, whether it is with the indies or with the BAME executives at the BBC, you can find the talent.

When I was in Scotland and we were looking at increasing regional diversity, we had to look at how we supported Scottish indies. We could not look just at how we supported in-house productions. It was about recognising the importance of the indie sector to creating healthy, vibrant, regional diversity. We need to start doing that with regards to BAME-led indies, disability-led indies and women-led indies, and look at how we support that. You just need to look at Lenny's picture. I have never seen that kind of writers' room in a BBC production. I have, however, seen a writers' room with that many black people or that many women in an indie.

Baroness Benjamin: So are you saying that we need more BAME-led companies and more people with disability and women to do the employing, or do we need executives in PSBs like Channel 4, Channel 5 and ITV to be conscious that they are missing a trick?

Sir Lenny Henry: That is a good point. As I said, I am the CEO of a BAME-led company. You would not think it, but it is very difficult for us. We do not get the support that you would expect. That is why Marcus and I conducted the first survey of BAME-led indies. The headline results were, first, that broadcasters are commissioning more diverse work but from predominantly white, privileged companies that then cherry-pick talent from BAME-led indies; secondly, that BAME-led indies ask for but do not get that all-important seat at the table with commissioners that they need and therefore suffer in comparison with their white counterparts; and, thirdly, that BAME stories that are commissioned often lack authenticity or conform to clichéd storylines. So it is very tricky.

On the other thing—whether there is institutional racism at the PSBs—my only direct experience is that I gave a speech at the BBC and a black guy came out and stopped me in the car park. He said something like, “It’s all right for you. You don’t have to work here”. The feeling was that there was no safe space to be able to say stuff that you were unhappy about without feeling that you would be oppressed or fired because of it. All the institutions need somewhere where employees can feel safe in giving vent to their feelings without fearing the noose.

The Chairman: That sounds to be a little more than just not very good processes; it sounds like a totally inappropriate workplace to me.

Marcus Ryder: What is inappropriate is that, if you look at the BBC’s stats for studios, you see that in 2017—I am not sure about 2018—it still had more BAME people leaving than their white counterparts. Not only that, but their white counterparts were leaving with pay-outs. BAME people were leaving without pay-outs, so they were clearly saying, “I’ve had enough” and just walking out the door. Retention, which Baroness Benjamin mentioned, is a problem.

I worked at the BBC for 24 years. I still have a lot of love for it, and as I said I am very reticent to single it out. I am able to mention these stats because the BBC publishes their in-house figures. We do not have stats for the large or the small indies about their retention.

Baroness Benjamin: What about Project Diamond? Has that not helped?

Marcus Ryder: Project Diamond has not helped.

Sir Lenny Henry: Yet.

Simon Albury: It is not going to help. Hidden away in the methodology section of Project Diamond’s latest report is that in year two it had a response rate of only 25.2%, and it says, “There is the inevitable possibility of reporting bias due to sample self-selection as a consequence of the low response rate, and this caveat must be included in the methodology”.

In my own evidence, I have given you what Sharon White says about Project Diamond.² You have seen what the Digital Minister, Margot

James, has said; thank heavens she has now said that she is prepared to bring forward secondary legislation to enable proper measurements to be made. A lot of people have tried to make it work, but from quite an early stage I thought it was a distraction. What we needed was Ofcom having the proper powers to get workforce data.

I concentrate on the BBC, because it is an almost £4 billion intervention. To its credit, in a report last year the BBC talked about the difficulties for BAME staff, but when it came to the data showing how many are in the creative areas, it said, "They are under-represented in the creative areas and they are under-represented in the cities with high BAME populations". But it did not give us the data, so we cannot even tell if it is doing any better. We need the data.

Thank heavens that Margot James, who joins Ed Vaizey, Matt Hancock, and Chris Smith years ago, as the Ministers who have made a difference, has said that she is now prepared to bring in secondary legislation so that we can have proper measurement. That is essential, particularly for the indie population not only in the BBC but in the rest of the industry.

Baroness Benjamin: I have a final question. Do you think a glass ceiling still exists and people feel that they cannot move forward? You have picked up on the fact that many people feel that they cannot come out and say how they are being treated in PSB organisations. Does that environment need to change?

The Chairman: A brief response, please.

Marcus Ryder: There is no doubt that there is a glass ceiling. If you look at the stats for management, BAME people and disabled people are not progressing as they should. The stats say that there is a glass ceiling. I understand that you will be talking to Anne Mensah from Netflix in two weeks' time. She arguably heads the largest drama commissioning group in the UK. Chris and I would be curious about whether she had similar job offers to head up drama for any of the PSBs.

Q128 **Baroness Kidron:** You have given me a brilliant segue, because I want to ask about Netflix and the SVODs. Do you feel that they serve a broader or more representative demographic in their programming?

Sir Lenny Henry: What is interesting about those guys is that, as Marcus said, British BAME viewers are leaving PSBs in their droves and going to SVODs in far higher numbers than their white counterparts. All the studies show this. That is because streaming services like Netflix champion representation behind the camera. In the *Broadcast* magazine survey, we found that BAME-led indies said that they receive a better hearing and see more opportunities by talking to Netflix and other streaming services than they do from the traditional broadcasters. This is despite the fact that Netflix and SVODs make up only 7% of UK production spend.

² Note by witness: Sharon White said Project Diamond lacks "the reach, the quality and the depth of data" that is needed.

I want to show you another picture. It is great. It replicates the Harlem Renaissance picture, which is about a day in Harlem. Do you remember that picture of the Harlem Renaissance? Basically, it is not a picture of on-screen talent. These are all the people who make programmes for a lot of the Netflix output. It is extraordinary. There are a lot of women, a lot of black and brown people, a lot of Hispanic people.

Once again, that is behind the idea of reach, of going to that particular audience and saying, "You want this programme? We're going to make this programme—'The Exonerated Five' by Ava DuVernay, a programme called 'Black-ish', a programme about whatever". The fact that they can absolutely direct that programme directly at you means that you will subscribe and change your viewing habits. It means that people are deserting terrestrial fare, because it is not serving them. Why is it not serving them? We are all paying our licence fee; these things should serve us.

Also, we should be able to see behind the scenes and see who is making that programme for us. Why has it looked the same for 35 years? I do not think I ever had a meeting in 35 years of working in television where the room did not look generally like this.

Simon Albury: Could I refer you quickly to my evidence in 2.10, where I talk about "Stud Life" by Campbell X; "Twelfth Night", a multicultural Shakespeare show with Sheila Atim, who just got an OBE; and "Double Cross" by Kyla Frye.

The SVODs have broken the stranglehold and given BAME people an opportunity to have a voice and get paid for it. They may not get all their money back, but my evidence says that "Stud Life" got its money back and "Twelfth Night" is getting its money back. In the case of "Double Cross", a short, Kyla Frye got seven minutes on Amazon, and the data she is getting from Amazon enables her to think that she can turn it into a feature film. It is actually enabling BAME people to have their voice.

Sir Lenny Henry: So with this representative photograph of everybody involved in making stuff behind the scenes at Netflix, my hope one day is to be able to hold up a picture like this for BBC, ITV and Channel 4 and Channel 5. That would be a real step forward.

Baroness Kidron: Can I ask another question, which leads from something Marcus said earlier? I totally take the economic argument on board, and the cultural piece; that is really clear.

But is there one piece that we are not talking about, which is that ultimately you are asking for this to be mandated through a regulator to the PSBs? There is also, in the broader sense of this inquiry, a question of whether the PSBs are facing some sort of existential threat from the SVODs. I am interested in what the value of the PSB system is in relation to this issue.

Marcus Ryder: I am a firm believer in public service broadcasting. It is incredibly important. It binds the nation together, which Britain needs right now. The arguments for PSBs are stronger than ever.

In terms of how we achieve that so that the PSBs are serving the entire nation, Lenny rolled out three possibilities. One might be the way we address regional diversity. That would be mandating that X amount is spent on indies or certain productions that can meet certain criteria.

The BBC has, in principle, agreed to this. When Danny Cohen appeared in front of the parliamentary Select Committee and was asked about ring-fenced money, which Lenny talked about earlier, he said, and he was head of television at the BBC at the time: "Lenny talked about ring-fencing and what he wanted was ring-fencing of production. What we propose is ring-fencing development spent, because the point around getting the best ideas in a meritocracy means that you guarantee that when commissioners commission ideas, they are commissioning the very best of what they have come from". I am quoting word for word, and so apologise for the mangled English.

We are ring-fencing around 15% of our development spend, proportionate to that part of the population, for those communities, to make sure that we are getting the ideas from them. So the BBC, in addressing a parliamentary Select Committee, has already said that in principle it supports the idea of ring-fencing money.

I think it fell down because, while ring-fencing that development fund, it did not then publish how many programmes were made and the actual programme spend coming from that development money, which is what we needed. Also, the criteria as to what was a diverse production were not very clear. For regional productions, it has to be very clear: Ofcom sets that. We could go down that regional model in which we are mandating a certain ring-fenced fund, which we have argued for before.

However, we could argue that instead of doing that we could have a contestable fund just for children's programming. That would work at well—you have a fund of X million that can co-fund commissions and fund development for people making programmes that meet certain criteria of diversity.

Alternatively, the other model is giving tax breaks to productions that meet certain criteria. Some of it can be mandated by Ofcom. The children's contestable fund is not mandated by Ofcom; I am worried that I am going to get it wrong, so I am looking at Baroness Benjamin here. The BFI looks after that. Or we can talk to the Treasury; I would love to get into a room with the Treasury and talk to it about tax breaks. Tax breaks are being looked at in the States, and something similar is going on in France. Illinois is looking at tax breaks. California is looking at tax breaks with diversity criteria. In New York, it was passed by the lower House in the state but fell at the last hurdle, and they are going back to it. New Jersey has just enacted tax breaks with regard to diversity.

Sir Lenny Henry: France's is about women in key positions, isn't it? A female director, DOP or exec producer.

Marcus Ryder: We can look at any three of those models.

Simon Albury: Can I disagree with Marcus? He said, "Or, or, or", whereas I think it is, "And, and, and". First, you can have contestable

funding. I believe it can be easily introduced, because there is a mechanism. We should have tax breaks as well, but that is more complex. It is not an “or”; we must have contestable funding, and tax breaks, which are more complex, should be considered alongside. It is not an “or”, Marcus.

Baroness Benjamin: Where would the contestable fund come from?

Simon Albury: In my evidence, I suggest that should come from the BBC licence fee, because the BBC does a lot of things very well, but now we have had 20 years of evidence that it cannot deliver on diversity, so a chunk of the licence fee should go to the contestable fund.

The BBC should recognise what it does well and do that, and recognise where it has failed, despite endless initiatives over 20 years—and more than 20 years; you can go back to the 1980s, but we do not have time for that. It does not do it well, it will not suddenly change, so the contestable fund could come from the licence fee or anywhere else, but what is urgently needed is a contestable fund.

Baroness Kidron: I want to go back to the Netflix of it all. One thing we are looking at is the idea of mandating and not mandating; you can put in for a contestable fund, but when your global reach or mission suddenly does not include training people in the UK or doing particular kinds of programming, that tide can also go out.

The question is: do you feel any desire to protect the BBC and the other PSBs, who are not enough in the conversation at the moment, to make sure that what is mandated is supported and that the obligations and the funding sit in the same place? I thought I heard you say that anybody can do it, but will they be strong enough?

Simon Albury: The BBC is mandated. Article 14—this is in my evidence—is mandated but it is not delivering.

Baroness Kidron: To your first quote: right in theory?

Simon Albury: Yes. It is mandated with Article 14. It is not even measuring the characteristics in Article 14.

The Chairman: Okay, we move on to talk a bit about Ofcom.

Baroness Bonham-Carter of Yarnbury: I apologise for being late; I had to talk about the BBC.

Simon, you were on the “Today” programme. I used to work for the BBC and remember with such clarity walking through a BBC newsroom and seeing that there was not a single diverse person there.

Going back to the criteria, the criteria must be about behind the scenes, as well as on the screen. Maybe that has already been spoken about.

Sir Lenny Henry: Yes. While there have been moves made to make a more level playing field on screen, we are talking about behind the screen, behind the cameras, behind the mic. Who gets to make decisions about what programmes get made, why and how, and what the staffing is?

Simon Albury: On-screen diversity without off-screen diversity is shallow and deceptive. However, the question was about Ofcom.

Q129 **Baroness Chisholm of Owlpen:** You have already talked slightly about Ofcom and its problems and the problems with Project Diamond et cetera. You clearly feel that it is not doing enough at the moment and that we need some kind of secondary legislation to make sure it does its job properly in holding the PSBs to account. Can you expand a bit on that?

Simon Albury: Can I be very brief?

Sir Lenny Henry: Can you?

Simon Albury: No, I cannot.

Sir Lenny Henry: Take four.

Simon Albury: The relevant diversity clauses—the equal opportunity clauses—were got into the Communications Act by Lord Puttnam. Ed Richards did not like them; he was the architect and he ignored them. There has been a long tradition in Ofcom that is hostile to these things. Now we have Sharon White.

In my personal dealings with Sharon, she has been gracious and elegant and I have tried to reciprocate, but that is in our personal dealings. My very strong feeling is that Ofcom does nothing to drive diversity beyond what its powers are. The people who have driven diversity have been Ed Vaizey, whom Lenny got involved, then Matt Hancock, who came and supercharged it, and now we have Margot James.

You are all experts in regulation. There is an interesting issue about who should drive the regulator. Is it Ministers? It may be APPGs, because the Creative Diversity APPG has just been set up with Ed Vaizey—I think you have been involved, Lady Bonham-Carter—and Tracy Brabin. Maybe that should tell Ofcom.

Ofcom is not active. It is very constrained. I can have a constructive conversation with DCMS. That means that you kick around issues and see where there is a solution. I can have meetings with Ofcom, but I have never had a constructive conversation. I do not know whether you have meetings and constructive conversations, but I certainly have not.

Marcus Ryder: I just want to talk about the need, and whether there is a need, for secondary legislation.

The need depends on how Ofcom defines “diversity”. When looking at increasing regional diversity, for example, its definition related to programme spend, substantive base and spend on staff. That meant that it looked at the budgets and the economics, and that it did not need secondary legislation. The First Minister, Nicola Sturgeon, and the Mayor of London, Sadiq Khan, wrote to Ofcom and said, “You cannot measure what you have not defined”. Ofcom has not defined diversity.

Baroness Chisholm of Owlpen: So that is the first thing.

Marcus Ryder: The first thing is: let us define diversity. Once we have that definition, we can decide whether we need secondary legislation or not. What is obviously massively problematic is not defining diversity.

Very quickly on Ofcom, one problem with it is that there are six major boards that either advise it or hold it to account: the Content Board, the Consumer Panel and the boards representing the four nations. Altogether, there are 32 people on these boards. Only one of those 32 is BAME.

First of all, we need to try to make those boards more representative. Secondly, we need a separate board for the interests of diverse groups; otherwise, because the boards are quite small, you might just be talking about one black person or one brown person, one gay person or one non-binary person on one of the boards. So you do not build up the critical mass. Just as with the nation boards, you realise that you need a critical mass, so they have separate boards.

I would argue that for the boards and Ofcom to be held to account, and to be advised better, you need to increase the diversity of the existing boards and you need a new board. That requires an Act of Parliament, which I would urge.

Baroness Benjamin: Actually, when I was on the Ofcom Content Board, we had a diversity group and focused on diversity. But, as you say, once someone leaves it does not necessarily continue, so it needs to be in legislation that that is supposed to happen.

Marcus Ryder: To be fair to Sharon White, she invited me, Lenny and other people in, but it was not formal, so there were no minutes for those minutes. Nothing was brought forward due to those meetings. Now that she is leaving, I have no idea whether those meetings will continue.

It is really good when people take their own initiative and try to be as inclusive as possible, and I definitely commend Sharon White for doing that, but we need an Act of Parliament to make sure that it is in legislation that we have an official board.

Sir Lenny Henry: I always found the meetings to be very pleasant, but I always left thinking, "Well, they haven't defined diversity". There was always lots of chat but never any movement. It would be great if we had an official thing where actions were taken after each meeting, and you knew that there was a direction going forward and that something was going to happen. You never felt that anything was going to happen, which was a shame; they were very nice people.

The Chairman: We are seeing them soon and can put this to them. I am sure they are very nice people. We are sadly drawing to a close. The Lord Bishop has the final question.

Q130 **The Lord Bishop of Chelmsford:** We are on the final straight and rapidly running out of time. I wanted to ask two questions and there is barely enough time for one.

The first is on public policy. Clearly, it is your view that public policy

needs to change to ensure better representation on and off-screen. What is the one thing that you think should be addressed as a priority to improve things? As we do not have much time, you are not allowed a second one.

Marcus Ryder: Tax breaks.

Sir Lenny Henry: Tax breaks.

Simon Albury: Contestable funds.

Baroness Chisholm of Owlpen: Is the important thing about the tax breaks that they must be separate from the tax breaks that are there now—new tax breaks that are purely for diversity as opposed to being attached to the tax breaks that are already there?

Marcus Ryder: Absolutely. It is additional rather than conditional.

The Lord Bishop of Chelmsford: I might have time to get my second question in. Speaking as a member of an organisation that also has great challenges with diversity, I am interested in the mindsets that fuel some of this. There has been incredible renewal in the church in east London where I serve, which has been fuelled entirely by immigration. So many black people under 30 are Christians, so many Asian people under 30 are Muslims, Sikhs or Hindus.

Yet recently I was on the BBC with a Muslim speaking about a new Islamic centre that had just been opened. The first question to the Muslim alongside me was, "What do you think about this new Islamic centre?" He said, "It's nothing to do with me. It's a Sunni centre. I'm a Shia". It was such a crass example—it was the BBC, I am afraid—of its ignorance of the cultures which it serves. This time, it was the religious culture.

How much do you think that kind of secular mind-set, which drives so much of the public service broadcasting world, cannot get its head around the fact that a lot of BAME people, to put it frankly, believe in God? It is just a big embarrassment.

Sir Lenny Henry: I love it that you are asking us this question. I have no idea what to say to it.

The Lord Bishop of Chelmsford: You might have the same problem yourself, but I am genuinely interested. Is that why America is better at diversity: because they are less embarrassed about this?

Simon Albury: As Britain's first black American gospel music DJ—that was me on Capital Radio;³ I was the DJ—if you get more young black people working in the BBC, you will get more Christians. I have just been involved with a group called Palace of the Dogs,⁴ which is made up of young black actors who are cultural activists. They have asked me to be a patron. They are all Christians.

The Lord Bishop of Chelmsford: As this is on the record, that is not

³ Note by witness: Under the name "Sam Scott".

⁴ Note by witness: The correct name is "The Palace Of The Dogs".

the reason I ask the question. I am just trying to understand why they are making so little progress. Has this been considered as a factor?

Marcus Ryder: I will try to answer that question. I think that it goes beyond religion to the very heart of our democracy. If you have people of the same mindset, the same socio-economic background, the same culture, you get lots of things wrong. You do not report on Grenfell until it is burning down, because you do not see it as important. You do not report on religion accurately, because you do not have those groups.

What we have in our media shapes our very discourse: what politicians, Lords and lawmakers actually discuss. If a large percentage of the population is Christian and is not being represented in our media, it will not be discussed on our television screens or discussed properly by our lawmakers. If a large proportion of the population are disabled, yet only 0.3% of the workforce is disabled, you will not get those concerns properly addressed in the media, and they will then not be properly addressed by the lawmakers.

You raise a really interesting point about religion, but it is larger, God forbid—pun intended—than religion. It goes to the very heart of our democracy.

Sir Lenny Henry: That person could not make that distinction, because they were the wrong person to ask that question. I went to Oxford recently; they were talking about young black kids coming up from London to walk around an Oxford college with regard to going there to study. They sent a very white middle-class person, and a lot of the kids went, "I don't want to come here, because I can't see me here". If you cannot see it, you cannot be it, and if you are being interviewed by somebody who has no relation to what you are talking about, you will never be able to relate to that person. If they do not even know the distinction between Sunni and Shia, they just do not know. It is not just about HR; if you hire the right people, the right questions will get asked.

The Chairman: Simon, do you have anything to add briefly?

Simon Albury: Amen.

The Chairman: Amen. I am afraid we have promised Lenny that he could leave at this minute—

Baroness Benjamin: Just very quickly, have you spoken to the Treasury about your tax breaks?

Marcus Ryder: Briefly, yes, and there was going to be a follow-up conversation with the Treasury. We are seeking that follow-up conversation, and if anybody here could influence that we would greatly appreciate it.

Sir Lenny Henry: They purse their lips and nod wisely, and then do not say anything.

The Chairman: You have made your points very well, thank you.

Sir Lenny Henry: One final thing on recommendations, if you are talking about policy it is to have dedicated, contestable government

funds; broadcasters to ring-fence programme hours and spend in the way they did for regional diversity—they should do that for gender and ethnic diversity; and tax breaks, tax breaks, tax breaks. Any help you can give us with that we would really appreciate.

The Chairman: Can I thank our three witnesses for a really interesting and at times entertaining session, which we enjoyed very much? You have given us much to talk about when we see Ofcom and the broadcasters—the BBC and Channel 4—in coming weeks. Thank you very much for taking the time to be with us today.