

Simon Albury MBE—written evidence (FCF0002)

House of Lords Communications and Digital Committee inquiry on the future of Channel 4

*"But, but that was long ago
Now my consolation is in the stardust of a song*

*The melody haunts my reverie
And I am once again with..."¹*

Standing Committee F on the Broadcasting Bill 1990

Key points

- I think the issue of privatising Channel 4 is less important than the context: DCMS' contempt for due process and the enfeeblement of Ofcom.
- Ownership is not the issue - remit and regulation is the key issue.
- I outline what needs to be done to safeguard Channel 4 and ensure it makes a unique contribution to the UK broadcasting ecology.
- I explain the key elements that should be included in any tendering process.
- I demonstrate what history can tell us and why the current debate is déjà vu, all over again.
- I explain what gives me the authority to say this.

The executive branch seems willing to do away with any of the traditional checks and balances to unfettered government. It is deeply disturbing if appointments to Ofcom itself and to Channel Four come under direct political control. Television news, in contrast to newspapers, is massively trusted by the public because it does not follow party political lines.

I was wrong

1. I was wrong to sign Broadcast's Not 4 Sale campaign statement against the privatisation of Channel 4. Did I do it because I was in despair? I don't know.
2. What I do know is that I am no longer in despair, because this committee has launched this inquiry, because I now remember that I played a central role in successfully thwarting Mrs Thatcher's attempt to bring a wrecking ball to ITV - and I know it can be done, because I know that Pareto was

¹ Stardust lyric, Songwriters: Carmichael Hoagy / Parish Mitchell

right when he wrote "The circulation of elites"² and that if Dominic Cummings can be expelled from Downing Street, then so can Dougie Smith.

3. In Le Carre's books, George Smiley visits Connie who had been forced into early retirement but whose memory provides a key that leads to the eventual victory over Karla. I have now visited my Connie and so I am no longer in despair because I can see that:

Ownership is not the issue - Remit and regulation is the issue

4. I submit this very personal evidence in a personal capacity. I have enjoyed a range of roles in public service media since January 1969, when I joined the Granada Television, World In Action Investigative Bureau.
5. In the mid-1970s, prompted by an invitation to join some members of the Annan Committee on the future of broadcasting for an informal dinner at the Garrick, I became engaged with broadcasting policy issues. For more than thirty years, in various capacities, I have engaged with government and a range of parliamentary committees and other bodies, via written and oral evidence and by all other means necessary.

Commercial companies and public good

6. In July, the comedian Ricky Gervais posted a message to his 14m Twitter followers saying that he disagreed with a sale of C4. He wrote

"For almost 40 years, Channel 4 has been a launch pad for new ideas and new talent. It's been able to do that because of its remit and not-for-profit structure and it would be a real shame if that was destroyed by selling off the channel".³

7. Today, as David Elstein has explained in his masterful history of Public Service Broadcasting and regulation, the C4 remit is scarcely worth the paper it is written on.⁴ Whatever the ownership, the C4 remit needs to be toughened up.
8. The not-for-profit structure is not as Gervais says "*the key to it being a launch pad for new ideas and new talent.*" Commercial companies can do that.
9. For many years, there was no greater launch pad for new ideas and new talent than ITV. The key was the combination of remit and regulation, enforced by the Independent Broadcasting Authority (IBA) and later by the Independent Television Commission (ITC).

² Pareto, Vilfredo (1935). *The Mind and Society*. New York: Harcourt, Brace and Company

³ "Major players back Broadcast's Not 4 Sale campaign" Broadcast, 20 July 2021
<https://www.broadcastnow.co.uk/channel-4/major-players-back-broadcasts-not-4-sale-campaign/5161>

⁴ "A (not so) brief history of PSB Time" in "What's The Point Of Ofcom" ed John Mair, April 2021

10. The Communications Act 2003 saw the death of the ITC and the birth of Ofcom. As a new broom regulator, the first Ofcom Chair, David Currie, and the first CEO, Stephen Carter, didn't want the old ITC brooms and so the key ITC people were not taken on by Ofcom. Understandable - but the wisdom and practical knowledge of devising, regulating and enforcing remits, developed in the IBA and ITC, over more than thirty years, was swept away.
11. Ofcom has been an aggressively deregulatory regulator and it has had little success in ensuring delivery of positive outcomes in relation to the licence conditions it has set.⁵ Look at BBC diversity.
12. David Elstein has been clear about what the 2003 Act and Ofcom has meant for Channel 4:

"Channel 4 now took advantage of the 2003 Act to issue a "statement of media policy" of inordinate length and minimal consequence, which allowed it to abandon virtually all the impressive PSB quotas that had distinguished its first two decades of broadcasting. Tier 2 requirements kept peak-time news and current affairs alive, but the 16 hours a week of formal education, schools, multicultural output and religion all disappeared, along with most serious documentaries and arts output (there was a time when Channel 4 not only broadcast whole operas but commissioned them).

To rub salt in the wound, Channel 4 proceeded to categorise any factual programme as "educational", claiming to broadcast 50 hours a week of "education". For this shameful outcome, we can only blame Ofcom, as the 2003 Act specifically requires Channel 4 to make "a significant contribution of programmes of an educational nature and other programmes of educational value". The pre-Ofcom regulators would have known what that language meant.

The old requirements for first-run UK-originated (FRUKO) programmes (60% of the schedule, 80% in peak time) have been dropped. Repeats regularly constitute 60% of the schedule and could in theory – apart from news and current affairs requirements – fill the entire schedule without breaching Channel 4's Ofcom licence. The decline in delivery of what Ofcom itself called at-risk genres, combined with the halving of its audience share, meant that consumption of old PSB-style content through watching Channel 4 amounts on average to one minute per day per viewer.

The "statement of media policy" provision in the 2003 Act allows broadcasters like Channel 4 to self-set and self-mark notions of PSB output, which simply have to meet Ofcom's own baggy

⁵ This committee may have seen and heard enough from me on the BBC and diversity in 2015 and 2019. If not, I should be told.

*definitions of public service "purposes and characteristics". These tests cannot be failed."*⁶

13. The IBA and the ITC were able to devise, regulate, enforce and award broadcasting licences that could be failed. These ensured commercial companies delivered public goods that went beyond the statutory requirements. As Director of the Campaign for Quality Television, I was responsible for the introduction of the provisions into the 1990 Broadcasting Act that ensured that this remained the case – at least that's what the Minister, David Mellor, told The Sunday Telegraph. ⁷

Not just Statutory

14. Prophecies of TV's imminent demise via digital's knife have been perennially wrong.
15. I had, at first, planned to start this written evidence with a quote from an MP who dismissed my first ever oral evidence to a parliamentary committee as what I remembered as something like "You are living in cloud cuckoo land". That was all I could remember from Commons National Heritage Select Committee session on The Future Of The BBC, to which I gave evidence on 27 October 1993.
16. When the Minutes of Evidence for that session arrived very recently from a parliamentary library, courtesy of a helpful former minister, I discovered that it was the MP John Gorst who had suggested that I was living not "in cloud cuckoo land" but "in a fool's paradise" ⁸. Much more important, I found that what I told that committee then is directly relevant, 28 years later, to this inquiry on The Future of Channel 4.
17. The discussion was about the threat of digital technology to the future of the four existing terrestrial channels. BBC 1, BBC 2, ITV and Channel 4. The Chair, Gerald Kaufman, was not alone on the committee in thinking there was no hope for them.
18. Today the current Minister of State joins them, at least, in relation to Channel 4. The Minister's proposals are designed to rescue the damsel in distress while the damsel says she is experiencing no distress at all. Déjà vu, all over again.
19. I spoke of the importance of political will, parliamentary process and most important, at the end, about regulation that delivered benefits beyond statutory requirements.
20. This section includes some key points:

⁶ Op cit

⁷ "Fitting The Bill – Jane Thynne talks to the MP (David Mellor) with a talent for compromise" Sunday Telegraph - 7 Days, June 10 – 18 1990.

⁸ "In view of what you have just quoted may I say it only goes to show that one of the pre-requisites of quality is you should be able to live in a fool's paradise" 1516 HOUSE OF COMMONS Session 1992-93, NATIONAL HERITAGE COMMITTEE, THE FUTURE OF THE BBC, MINUTES OF EVIDENCE Wednesday 27 October 1993

Mr Gorst

1516. *In view of what you have just quoted may I say it only goes to show that one of the pre-requisites for quality is you should be able to live in a fool's paradise.*

(Mr Albury) I have heard the reference to a fool's paradise.

1517. *Yes, I made it slightly earlier.*

(Mr Albury) That is right. I am a fool perhaps and I wish to live in a paradise where the four terrestrial channels we have at the moment are sustained until such a point that it is clear that we do not need them. I do not know when that point is going to come. At that point it will be clear that we do not need them. What I hope this Committee will do is seek to sustain those four general services until they are not needed.

Chairman (Gerald Kaufman)

1518. *It is not a question of whether they can be sustained while we need them, it is a question of whether they can survive whether we need them or not in the United Kingdom environment.*

(Mr Albury) I believe that is very much a matter of political will, at least within the next ten years, that funding can be made available, adjustments can be made.

1519.1 *I think you are extremely complimentary to our capabilities and I have to say I believe you are over-complimentary to our capabilities.*

(Mr Albury) Can I respond to that, Mr Chairman. I was amazed at the changes. As you can tell I am a Committee groupie and I sat through most of Standing Committee F and I was amazed at the changes that were brought about. I believe the people who sat on that Committee saved ITV from becoming a dreadful second rate system. It (the Committee) got obligations in. Mr Howarth is not here, he said there were no statutory obligations for social action programming and that is correct but there were other mechanisms that were put into the Bill that enabled the ITC to expect social action programming, companies offered social action programming and a whole range of intentions to which they are now bound. I think what that Committee did was very significant."

Key Safeguards

21. Mrs Thatcher had intended that ITV franchises should be sold to the highest bidder. If Channel 4 is to be privatised, politicians would be well advised to consider the safeguards in the auction process introduced by Standing Committee F on the Broadcasting Bill 1990.
 - a. Illustrative guidelines

Illustrative guidelines enabled the ITC to seek commitments that went beyond statutory requirements. On 8th February 1990. David Mellor told the committee:

"I have accepted an amendment that gives the ITC to publish illustrative guidelines setting out the range of programmes. The ITC as a whole believes it has the right to say it wants to see a proper range of programmes shown. Important categories such as drama, documentaries, arts and social action programmes will be expected to be shown on a diverse service."

b. Exceptional Circumstances

The Exceptional Circumstances clause allowed the ITC to disregard the highest bid if a lower bidder proposed programmes of exceptionally higher quality. The effect was to raise the level of quality offered in the bids. (I have rediscovered that this important qualification was developed by the late David Glencross, David Elstein and myself on a Brighton – London rail journey on 12 January 1990).⁹

c. A strengthened quality threshold

"An IBA Paper (153989) prepared in October (1989) by Michael Redley, an economist who had been seconded from the Treasury to be (then Acting IBA Director General) Shirley Littler's Chief Assistant, argued that the quality threshold should be set as high as the Act and the economic prospects would allow and that the ITC should test for 'high quality' as an aspect of diversity".¹⁰

The Committee added a range of measures including the award of licences only to 'fit and proper persons', range and diversity in terms of 'cost of acquisition and range of programmes', and statutory requirements for children's and religious programmes.¹¹

Who is Connie?

22. I have said in Le Carre's books, it was "Connie who had been forced into early retirement but whose memory provides a key that leads to the eventual victory over Karla".
23. My Connie is Michael Redley, referenced above, who became Secretary of the ITC. Michael Redley is the outstanding and now the only standing authority on how all this was done from a regulator's perspective. Michael Redley is the last repository of the thirty years of wisdom and practical

⁹ "Under The Hammer" by Andrew Davidson, Mandarin Paperback 1993. (This edition corrects an inaccuracy in the hardback edition of 1992)

¹⁰ "Independent Television in Britain Volume 5" by Paul Bonner with Lesley Ashton, Macmillan Press 1998.

¹¹ Op cit

knowledge developed in the IBA that enabled the tendering process for ITV licences to develop so much public good.

24. Michael Redley went to Oxford in 2002 as Secretary to the Continuing Education Board and now supplies a special subject on propaganda for the Postgraduate Certificate in Historical Studies. Michael Redley would be shocked that my virtual visit to him had led me to submit this evidence in this form.
25. Others may present evidence from the perspective of the regulated. Only Michael Redley can provide evidence of the ITV auction process from the regulator's perspective.

Ofcom

26. Ofcom has been aggressively deregulatory. Ofcom's authority has been undermined by Governments which have refused to accept its recommendations, at least, since 2016 when Dame Patricia Hodgson was Chair. Then, Althea Efunshile's appointment to the Channel 4 Board was blocked. As David Lammy said at the time, "the decision to block the appointment of a black woman to the all white board beggars belief".¹² (Efunshile was appointed in a government u-turn in December 2017).
27. Now Stewart Purvis has revealed how the government has hollowed out the Channel 4 board. Purvis wrote:

*"the government has deliberately created a situation where nearly half of the non-executive directorships on the Channel 4 board, including the Chairmanship, will be vacant by the end of the year. Since those directors will appointed by Ofcom "in agreement with the Secretary of State for Digital, Culture, Media and Sport" the chance will be there for the government to begin to install a board for whom privatisation is a given. The job of these new directors would not be overseeing the running of a publicly-owned broadcaster or to resist privatisation, it would be to make the transition to a new private owner as smooth as possible."*¹³

28. In February 2020 I wrote: about the Government opposition to the appointment of Dame Melanie Dawes as Ofcom CEO:

"The Sunday Times reported (and others have confirmed privately) that No. 10 had "urged the regulator Ofcom to drop Dame Melanie Dawes as its next chief executive in favour of someone who would challenge the BBC". I'm very keen to see Ofcom continue to challenge the BBC but it was quite wrong for government to seek to block the CEO chosen by the Ofcom board on that basis.

¹² "[Channel 4: Blocking of Althea Efunshile from C4 board 'beggars belief', says MP](#)", [Mark Brown](#), [Charlotte Higgins](#) and [Mark Sweney](#), Guardian 7 December 2016.

¹³ [Channel 4: the 30 years war. An insider's account](#) by Stewart Purvis *British Journalism Review* Volume 32 Number 3

In 2017, when Ofcom proposed to do an inadequate job on regulating the BBC on diversity, there was a political argy-bargy. Government ministers Matt Hancock and Karen Bradley gave Ofcom a good kicking and Ofcom produced better plans. A proper tension between government and regulator played out in public. That's how it is supposed to work. Ofcom is working on the latest public service broadcasting review. It could be important. The appointment of a different CEO, with the government's agenda, would devalue anything Ofcom says in its public service broadcasting Review.

Eventually, after months of government procrastination, Dame Melanie Dawes was appointed on 12 February 2020. It was also announced that the Ofcom chair, Lord Burns, would step down early.

A former Government advisor told me: "Terry has had to fall on his own sword to get Dawes appointed. From the government's point of view, better to choose the chairman rather than influence the choice of CEO. The Government have achieved what they wanted, in fact they've done better." ¹⁴

29. Nineteen months after Lord Burns said he would step down, Ofcom remains without a Chair. The Government tainted the appointment process early by floating the idea that Paul Dacre would be the ideal appointee. Dacre failed to meet the role criteria and when four well qualified candidates emerged from the DCMS selection process, all were deemed unacceptable. It is now rumoured that the selection criteria may be varied to remove the hurdles at which Dacre fell.
30. The Government's disregard for regulatory independence and its utter contempt for Ofcom's and its role as an impartial regulator beggars belief.

DCMS

31. Tim Shipman, the respected political editor, writes that the most powerful man in Britain and in Downing Street is Douglas Smith.

"Dougie has (DCMS Secretary of State Oliver) Dowden on a string," said a senior political source. "Dougie is always calling up cabinet ministers and saying: 'This is what Boris wants.' Hardly anyone questions it. He has his own agenda."¹⁵

32. Shipman says Dougie Smith "controls access to the Conservative candidates' list, appointments to public bodies and even the House of Lords".
33. Shipman suggested Smith was behind The plan to send Paul Dacre, the former editor of the Daily Mail, to run "broadcasting watchdog Ofcom"

¹⁴ "Is the BBC in Peril?" Edited by John Mair and Tom Bradshaw, A Bite-Sized Public Affairs Book February 2020

¹⁵ "How the Tories weaponised woke" by Tim Shipman, Sunday Times, June 13 2021

34. Recently we have learned more about the DCMS recruitment process for the Ofcom Chair:

"The first attempt to appoint Dacre, an arch-critic of the BBC, unexpectedly failed at the final round of interview process. Even though the government appointed the four-strong advisory committee, it concluded Dacre's strong opinions on the British media meant he did not meet the stated criteria to become chair of the Ofcom board.

Rather than accept the verdict and appoint another one of the candidates who did pass the vetting process, ministers instead decided to scrap the competition altogether and rerun it from scratch to enable Dacre to have another try.

An issue now facing the government is how to find people with a credible record in business or public life who are willing to sit on the new interview panel. One individual who has been informally tapped up as a potential interviewer told the Guardian they refused to take part in the recruitment process.

*They feared their public reputation would be damaged if they were perceived to be taking part in a vetting process that only exists because the government wants Dacre's appointment to be rubber-stamped."*¹⁶

35. It may be that the source quoted by Mr Shipman was wrong when he said "Dougie has (DCMS Secretary of State Oliver) Dowden on a string" and Oliver Dowden is his own man. If he is his own man then the Secretary of State is a person who has allowed petulance and politics to trump due process.
36. Ofcom as regulator is there to ensure the editorial independence of broadcasters and to ensure they are duly impartial, fair and accurate. It's deeply disturbing if appointments to Ofcom itself and to Channel Four come under direct political control. Television news, in contrast to newspapers, is massively trusted by the public because it does not follow party political lines.
37. With Ofcom neutered and subservient to a Secretary of State who ignores due process, who can be trusted to run a fair depoliticised process to privatise Channel 4?

Never Abandon Hope

38. My first rough notes for this evidence ended "Abandon Hope". There was quite a lot about what the government was saying. I've left that out.

¹⁶ "Ministers struggle to find people to interview Paul Dacre for Ofcom job" by Jim Waterson, Guardian, 31 August 2021

39. The arguments for privatisation may or may not stack up. Others will argue those point better than me. Some of them may even be capable of forensic accounting and understand economics. I am neutral on ownership.
40. What I offer in this evidence are the lessons of history. A new remit is the key. With C4's current remit, even within the existing ownership structure, a new team might abandon the many the virtues that have been prayed in aid by the people and organisations opposing privatisation.
41. What needs to be enshrined in a new remit are obligations for Channel 4 to be a launch pad for new ideas, new talent, new indies, greater diversity and more regionalism, together with safeguards for its political independence.
42. I do not abandon hope because history shows parliamentary systems can modify extreme government initiatives. I do not abandon hope because this enquiry marks the start but not the finish of the parliamentary processes.

1 September 2021