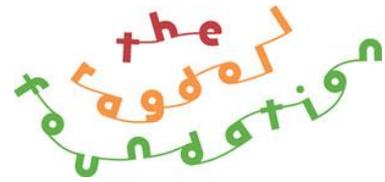


**pact.**



**Robert Kenny & Tim Suter**

**Children's television – a crisis of choice**

**The case for greater commercial PSB investment in Children's TV**

**26 February 2015**

### *About Pact*

Pact is the UK trade association representing and promoting the commercial interests of independent feature film, television, digital, children's and animation media companies.

### *About Ragdoll*

The Ragdoll Foundation is dedicated to developing the power of imaginative responses in children through the arts.

The Ragdoll Foundation is governed by a Board of Trustees, chaired by Katherine Wood and its founder is Anne Wood CBE.

### *About the authors*

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### *Disclaimer*

The opinions offered in this report are purely those of the authors and do not necessarily represent a corporate opinion of Communications Chambers.

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# 1. Foreword



*John McVay*  
*Chief Executive*  
*Producers Alliance for*  
*Cinema and TV (Pact)*

*Anne Wood CBE*  
*Founder*  
*Ragdoll Foundation*



Pact and the Ragdoll Foundation have collaborated at this important moment in time around Ofcom's third PSB Review, to develop and communicate the case for greater investment by the UK Public Service Broadcasters (PSBs) in children's TV programming.

This report, using the expertise of Communications Chambers, sets out how the current PSB system is failing children and how investment, spend and hours of original content across the PSB channels including BBC, ITV, Channel 4 and Channel 5 has plummeted over the last ten years.

Children are the audience of the future and they are currently being underserved as the majority of PSBs are failing to cater for their needs in any meaningful way. Is providing endless repeats satisfactory to support the effective education and development of our children? Well, as the report argues, it shouldn't be.

In the current landscape, the stark reality is one of the BBC left as the remaining sole buyer with shrinking budgets and no guarantee that it will secure the licence fee deal it needs to protect appropriate levels of investment in children's content in the future.

The clear view from the public at the moment is for plurality and diversity of supply which obviously includes children and the evidence from this report demonstrates that the PSBs are failing our younger audiences.

Pact, Ragdoll and indeed the entire children's sector were thrilled to secure the tax credit for children's TV production in 2014 and this brings us one step closer to securing a broad range of excellent content for children in the future. The children's sector is a positive incubator for future talent and the tax credits for children's TV and animation will both keep investment in the UK and secure inward investment too. However, that isn't enough.

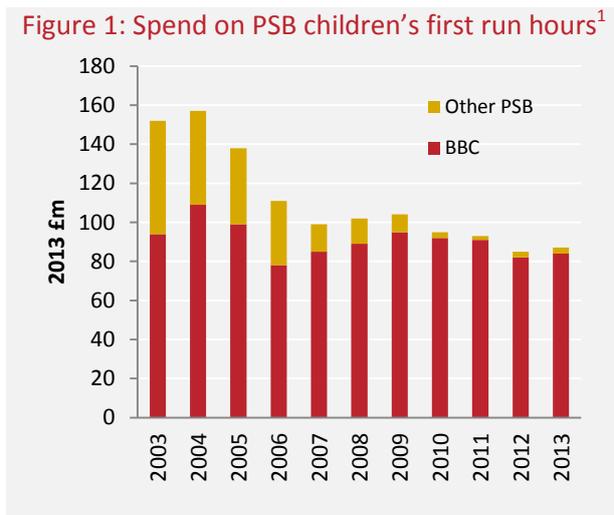
This report sets out a number of options that we argue should be debated over the coming months, including quotas on the PSBs for children's programming.

There is a crisis in children's TV. We urge Ofcom to have a meaningful response to this systematic failure and address this in their final report of the PSB Review. If broadcasters fail to act to improve their offering to this important PSB genre then the end game should be PSB quotas for original children's content.

## 2. Executive Summary

The last decade has seen a collapse in the provision of children's content on the commercial PSB channels. Spend has fallen by 95% since 2003.

This has been caused in large part by two key regulatory changes. The Communications Act 2003 removed quotas for children's programming, and the ban on HFSS advertising to children in 2006 removed a material part of the revenue available from such programming. In neither case do the consequences appear to have been fully anticipated. The outcome is a very heavy reliance on the BBC for new UK produced programmes.



This is completely at odds with the UK's system of plural PSB, where different PSBs compete to serve each genre. The concentration of children's provision in the hands of the BBC creates a number of problems: it reduces the diversity of programmes; it removes a competitive stimulus; it creates risk given the threats to BBC budgets; and it creates a (near) single UK buyer for the indie sector to engage with. This concentration is doubly unfortunate given the importance of children's as a PSB genre.

Ofcom's third PSB review creates an opportunity to redress the balance. The turmoil of DSO (Digital Switchover) is behind us, the PSBs have retained substantial audience share, and the commercial PSBs are financially healthy (with ITV and Channel 5 reporting record profits in 2013).

Ofcom and policy makers have various options. Quotas for children's programming on the commercial PSBs could be reapplied in one of two ways. Firstly, children's television could be placed in 'Tier 2' - the set of programme genres in which Ofcom can, by statute, set such quotas.

Secondly Ofcom has raised the possibility of extending PSB status to the PSB's portfolio channels. This would deliver value to the broadcasters, not least by giving EPG prominence to those channels. Thus the broadcasters could accept additional production obligations in return.<sup>2</sup>

<sup>1</sup> Ofcom, *Children's analysis [PSB Annual Report]*, December 2014

<sup>2</sup> Note the separate Pact submission to the PSB Review expresses its reservations with regard to this option.

Beyond the limited output of the commercial PSBs, it seems likely that many children's channels are not fully meeting the requirement for 50% of their content to be of European origin. Stricter enforcement in this area could boost investment in original UK content.

### 3. The recent history of UK PSB children's TV

Over the course of the last decade, children's TV from the commercial PSBs has seen a dramatic contraction. While a number of factors have contributed, two key drivers were the Communications Act of 2003 and the ban on HFSS advertising.

#### Statutory and regulatory change

##### *The Communications Act 2003*

Prior to the Communications Act, ITV was required to screen 10 hours of children's programming per week. Channel 5 had a quota of 11 hours, 40 minutes. However, the Act placed children's programming in 'Tier 3'. This required Ofcom to consider whether the PSB "services (taken together) include what appears ... to be a suitable quantity and range of high quality and original programmes for children and young people".<sup>3</sup> However, Ofcom did not actually have powers to mandate any particular broadcaster to provide children's programming.

In effect, children's programming became discretionary for the commercial PSBs. While they were required to consult with Ofcom on changes to hours of programming, the commercial PSBs had substantial freedom to make those changes regardless of the regulator's views. According to Ofcom, "it is ultimately for PSBs themselves to decide what to deliver".<sup>4</sup>

It is not clear that the implications of the Act for children's television were fully understood at the time of its passage. There was little lobbying on this issue, those involved acknowledged that they were not clear on the significance of relegation to Tier 3, and children's TV was barely mentioned during passage of the Bill. There was far more attention on changes to media ownership rules.<sup>5</sup>

Whatever the expectations, the consequences *were* clear. On the basis that other genres of programming were more profitable, ITV in particular greatly reduced its commitment to children's programming. Hours per week on ITV1 dropped from 10 in 2005 to just 2.5 in 2008.<sup>6</sup>

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<sup>3</sup> HMSO, *Communications Act 2003*

<sup>4</sup> Ofcom, *The future of children's television programming*, 3 October 2007

<sup>5</sup> Alessandro D'Arma & Jeanette Steemersii [Communications and Media Research Institute, University of Westminster], *Children's Television— 'The Soft Underbelly of Public Service Broadcasting'*, 2008

<sup>6</sup> Liz Thomas, "ITV1's kids shows hit record low", *Broadcast*, 18 March 2008

### *Ban on HFSS advertising*

A further challenge was the ban on advertising of food high in fat, salt and sugar (HFSS) during children's programmes. Implemented by Ofcom in 2006 in support of Government policy at the time, this removed a key source of ad spend. Ofcom estimated that the HFSS restrictions would cost the commercial PSBs £10.4m of revenue.<sup>7</sup> Ofcom couched this in terms of overall PSB revenue, noting that it represented 0.3% of the total. Certainly a £10.4m loss was unlikely to represent a threat to the PSB operators overall. However, this figure was far more dramatic by comparison to spend on children's programming – in 2006 the commercial PSBs spent just under £40m.<sup>8</sup> Clearly the loss of a sum equal to a quarter of the budget was likely to have a drastic effect on the profitability of the genre.

At the time Ofcom acknowledged that the restrictions "could have a knock-on effect on original children's programming, the scale of which is difficult to determine", but added optimistically "independent producers have already shown themselves to be skilled at developing different sources of financing for their programmes".<sup>9</sup>

Given the actual out-turn, this suggests that (as with the Communications Act) the impact of this change was underestimated.

In reality, these two changes removed both the requirement and much of the incentive for first run commercial PSB children's programming. The result has been a collapse in production.

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<sup>7</sup> Ofcom, *Annex 7 – Impact Assessment : Annex to Consultation on Television Advertising of Food and Drink to Children*, 17 November 2006. Figure is for 'Modified Package 1', the option ultimately implemented

<sup>8</sup> Ofcom, *Children's analysis [PSB Annual Report]*, December 2014. Note that the figures in this report are inflation adjusted to 2013 £. We have adjusted the figure back to 2006 £

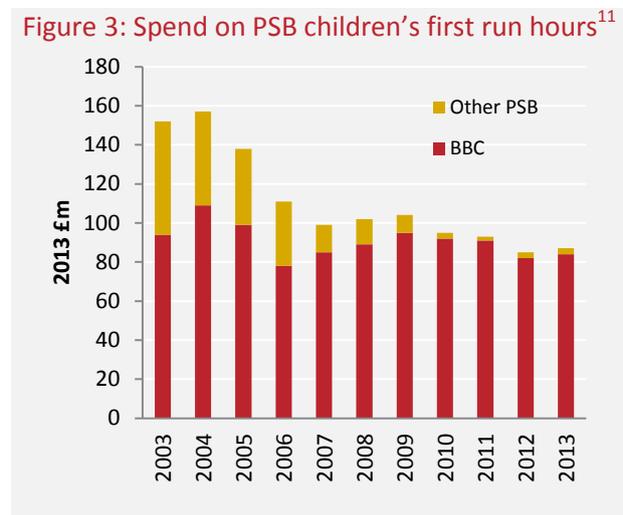
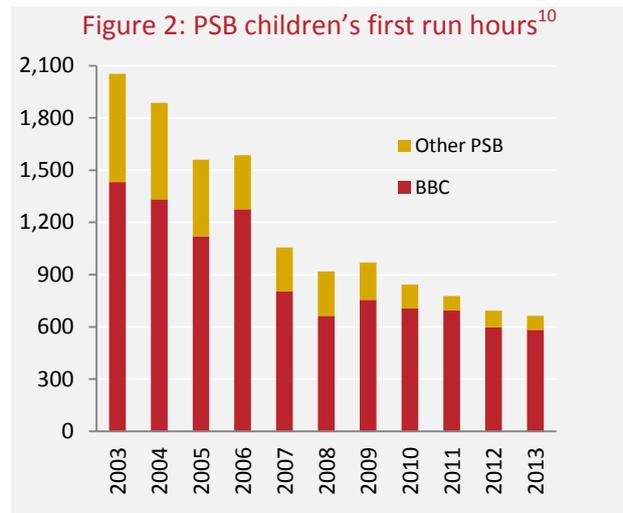
<sup>9</sup> Ofcom, *Annex 7 – Impact Assessment : Annex to Consultation on Television Advertising of Food and Drink to Children*, 17 November 2006

## Commercial PSB children's production

Since the 2003 Communications Act, the volume of PSB first run children's production has fallen by 68% (Figure 2). The BBC, facing budget pressures, has cut its first run hours by 59%. However, hours on the commercial PSB channels have fallen even more sharply – by 87%. In aggregate these channels now show less than two hours per week of first run children's programming, down from 12 in 2003. (Note that figures in this section are for the main five channels only, and exclude commercial PSB portfolio channels – particularly CITV).

Spend on children's programming shows an even starker picture for the commercial PSB channels. BBC spend is down 11% between 2003 and 2013 in real terms, and continues to fall. Commercial PSB spend on their main channels has collapsed by 95% from £58m in 2003 to £3m in 2013 in 2013 prices.

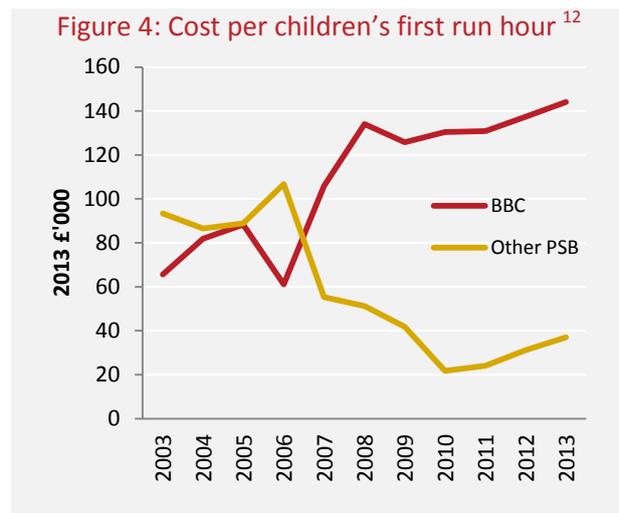
The overall 43% decline in PSB spend on children's commissions is appreciably faster than the 25% decline in overall PSB spend. As a result, children's share of overall spend has dropped from 4.8% in 2003 to 3.6% in 2013.



<sup>10</sup> Ofcom, *Children's analysis [PSB Annual Report]*, December 2014

<sup>11</sup> Ofcom, *Children's analysis [PSB Annual Report]*, December 2014

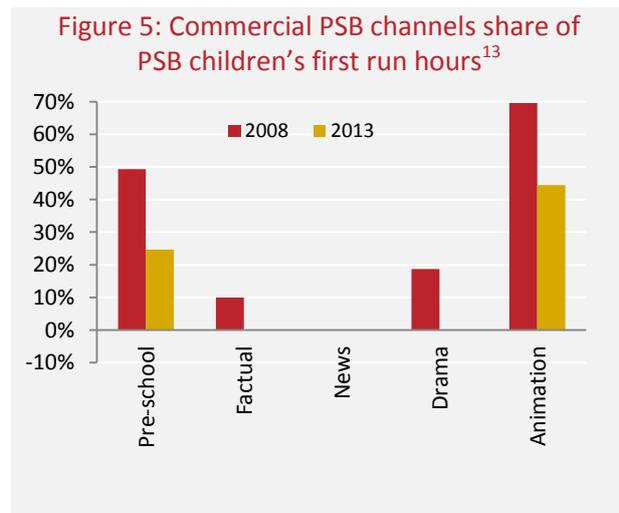
Given that children’s spend has fallen faster than children’s hours, inevitably the cost per hour for the commercial PSBs has also fallen. Until around 2007, the commercial PSBs and the BBC were spending broadly comparable amounts per hour on their children’s programming. However, in recent years the commercial PSBs have fallen far behind, with spend per hour one quarter that of the BBC or less.



One indicator of the heavy reliance on the BBC for quality children’s programming is the mix of nominees for Broadcast Awards. Of the twelve programmes nominated for the 2015 awards in the children’s and pre-school categories, 11 were commissioned by the BBC. (The twelfth was from Nick Jr).

Thus in both volume and (average) quality, the commercial PSBs have fallen far behind the BBC.

One reason for the BBC’s higher spend is its genre mix, with the BBC investing in more expensive genres. For example, while the BBC has over an hour per week of children’s drama, the commercial PSB channels now show none at all (Figure 5).<sup>14</sup> The BBC is also now the only producer of children’s factual and news.



Only for animation do the commercial PSB channels represent a substantial commissioning alternative to the BBC. However, this is by far the smallest children’s genre in terms of commissioning, constituting just 9 out of the 666 first-run hours on the main five channels in 2013.

## Commercial PSB children’s programming

### ITV

ITV offers limited children’s programming on its main PSB channel – primarily from 6am to 9.30am at weekends. It does however offer such programming on CITV from 6am to 6pm. This includes some UK

<sup>12</sup> Ofcom, *Children’s analysis [PSB Annual Report]*, December 2014; Communications Chambers analysis

<sup>13</sup> Ofcom, *Children’s analysis [PSB Annual Report]*, December 2014; Communications Chambers analysis

<sup>14</sup> Though Channel 4 has shown a small amount of drama on its portfolio channels – see below

commissions (recent examples include a new series of *Mr Bean* and *Horrid Henry*, and the revival of *Thunderbirds*<sup>15</sup>), but there is an overall emphasis on acquired content.<sup>16</sup> Even though CITV has commissioned some new shows, they have stopped broadcasting or commissioning pre-school shows.

Based on analysis of the CITV schedule for a recent day<sup>17</sup>, we find that just 31% of the content is UK originated, and this content an average age of almost 10 years.<sup>18</sup> Episodes of *Mr Bean*, *Grizzly Tales for Gruesome Kids* and *Wolves and Witches and Giants* dating from 2002 or earlier represented half the UK programming on this day. Even the foreign content was heavy with repeats, with an average age of almost five years, and with 1 hour 20 minutes of programmes more than a decade old.

#### *Channel 4*

Channel 4 offers minimal children's programming, and in 2013 showed none at all on its main channel.<sup>19</sup> Its total budget across all its channels for 'education and older children' was £8m in 2013.<sup>20</sup> The channel's 2013 flagship programme aimed at those aged 10-14 was *Youngers*, shown on E4.

Channel 4 was once a global leader in animation – in 1993 it commissioned four of the five nominees for the Cartoon d'Or award – but it now has little presence in this genre. In the 1990s Channel 4 was also responsible for several award-winning live action factual and entertainment programmes, such as *Wise Up!*, which won two BAFTAs as well as international awards such as three Emmys and the Prix Jeunesse . The current reality is very different.

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<sup>15</sup> Note that *Thunderbirds* is a co-production between ITV Studios and Pukeko Pictures, a New Zealand producer

<sup>16</sup> Mediatique [for Ofcom], *PSB review: Investment in TV genres*, 1 December 2014

<sup>17</sup> Friday 6 February 2015

<sup>18</sup> Communications Chambers analysis based on CITV schedule, IMDB and other sources

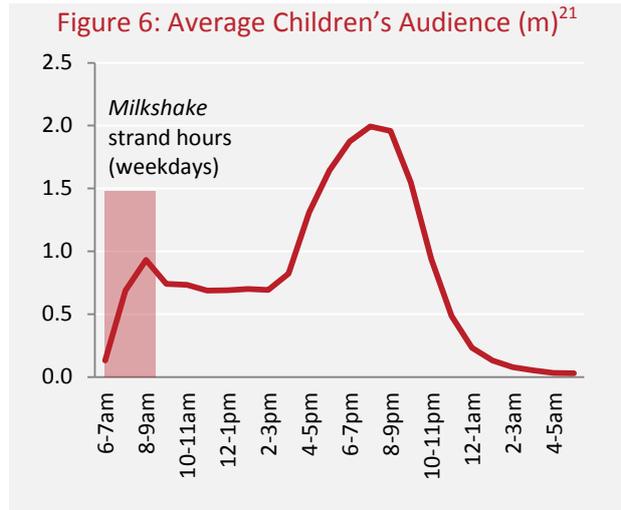
<sup>19</sup> Ofcom, *Children's analysis [PSB Annual Report]*, December 2014

<sup>20</sup> Channel Four Television Corporation, *Report and Financial Statements 2013*, 26 March 2014

### Channel 5

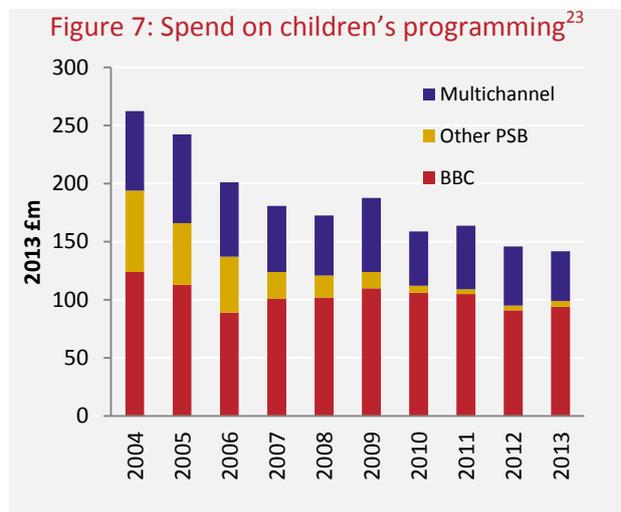
Channel 5 offers children’s programming through its ‘Milkshake’ strand. Exact hours vary, but typically it airs from 6am to 9.15am on weekdays and 6am to 10.30am on weekends. While Channel 5’s children’s programming is valuable, that value is limited by the relatively small audience available during these hours.

Milkshake contains relatively little new programming – in 2013 Channel 5 broadcast just 32 hours of first run content, or less than 40 minutes per week.<sup>22</sup>



### Non-PSB children’s production

Thus far we have focused on spend and output of the PSB channels (including BBC portfolio channels). However, there are a range of children’s channels available from ITV (CITV), Disney, Turner, Viacom and others. While these channels do provide greater choice and are important to children’s viewing, they certainly have not ‘picked up the slack’ in children’s programming spend – quite the reverse. Since 2004 spend on children’s programming by these multichannels has fallen by approximately 40% in real terms.



Such channels are also mostly only available via pay platforms. While CITV, POP and Tiny POP are available on Freeview, the Turner, Disney and Viacom channels are only available on pay platforms. Moreover, they are not in the basic tier, but only in premium packages. Thus they will not be available in all pay households.

There are 3.6m children living in DTT or Freesat households who will not have access to this wider set of channels, in addition to that portion of the 8.2m living in pay households which do not take the relevant premium package.<sup>24</sup> That said, these channels do represent

<sup>21</sup> BARB

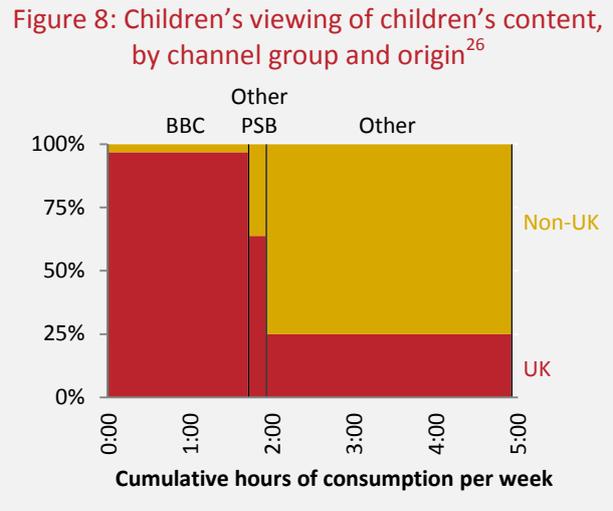
<sup>22</sup> Ofcom, *Children’s analysis [PSB Annual Report]*, December 2014

<sup>23</sup> Ofcom, *Children’s analysis [PSB Annual Report]*, December 2014; Ofcom Communications Market Reports; Communications Chambers analysis

<sup>24</sup> BARB Establishment Survey. Children aged 0-15

a substantial portion of viewing by children of children’s programming – 64% in 2013.<sup>25</sup>

From a public policy (and audience) perspective, one disadvantage of these channels is that they are heavily skewed to non-UK content (Figure 8). Just 14% of their output and 25% of their viewing is UK originated. Overall the PSB channels provide 70% of the viewing of UK content, though they provide less than 40% of total children’s viewing. (Overall, 48% of children’s viewing of children’s content is non-UK originated).



This suggests that the current situation is not meeting parents’ expectations. Ofcom research has found that 72% of parents<sup>27</sup> agree that “It is important that TV channels other than the BBC’s Cbeebies and CBBC provide children’s programmes that reflect life in the UK”.<sup>28</sup>

**Conclusion**

UK originated children’s content has seen a dramatic contraction over the last decade. This is primarily because changes to regulation have enabled a collapse in commercial PSB spending, although both BBC and non-PSB budgets have also been under pressure.

However, a problem created in part by regulatory change may be addressable by a further adjustment to regulation – a theme we return to below.

<sup>25</sup> Ofcom, *Children’s analysis [PSB Annual Report]*, December 2014  
<sup>26</sup> Ofcom, *Children’s analysis [PSB Annual Report]*, December 2014. Communications Chambers analysis. Figures for 2011 (latest available). Note that CITV is in the ‘other’ category  
<sup>27</sup> More precisely, those “who have a child in household or young family who visit regularly”  
<sup>28</sup> IPSOS MORI, *2014 PSB Review : An investigation in to changing audience need s in a connected world*, November 2014

## 4. Children’s TV and PSB objectives

In this section we consider children’s TV in the context of wider PSB objectives, first looking at its importance as a genre, and why it is particularly relevant to PSB. We then consider the UK’s particular approach to PSB.

### Children’s TV as a PSB genre

Children’s programming has long been recognised as a core PSB genre, both in the UK and overseas. There are two main reasons for this:

- Children’s developing minds mean quality programming can be particularly beneficial, in delivering knowledge, values and cultural identity
- The genre is commercially challenging, creating the risk of under-delivery by the market.

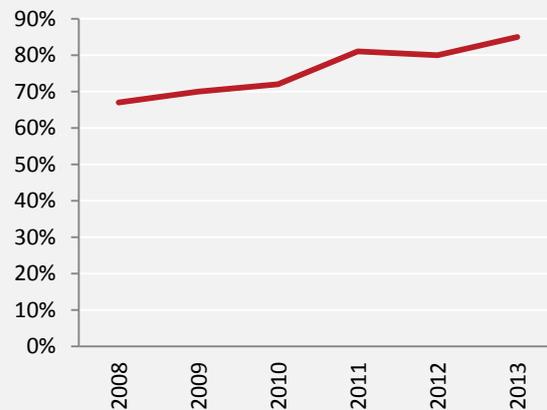
We discuss these in turn.

#### *Value of children’s TV*

Certainly citizens see the importance of children’s PSB, with 85% of parents<sup>30</sup> in Ofcom’s survey saying it is important that ‘it provides a wide range of high quality and UK-made programmes for children’ (Figure 9). This is a figure which has been rising over time, despite the increasing availability of non-PSB children’s programming.

Of the various aspects of PSB purposes tracked by the Ofcom survey, this importance rating for quality children’s programming is second only to that for PSB’s ‘news programmes are trustworthy’. It ranks above (for example) the importance ratings given to regional news and regional representation, two areas where one or more commercial PSBs carry specific performance obligations. By contrast the commercial PSBs carry no such obligations for children’s programming.

Figure 9: Parents rating children’s PSB as important<sup>29</sup>



<sup>29</sup> Ofcom, *Annex 3.i: PSB audience opinions PSB tracking survey [PSB Annual Report]*, December 2014. Note that there was a change in survey methodology in 2010 – see source for details

<sup>30</sup> This survey question was only asked of parents

### *Profitability of children's TV*

The lack of obligations would matter less if the market was anyway likely to deliver sufficient quality children's content. However, for a number of reasons, children's TV is commercially challenging.

- Children's lack of spending power makes them a less attractive audience to advertisers, reducing their value to commercial broadcasters. (This issue has been exacerbated by the HFSS ban in the UK)
- They are a niche audience, again reducing their value
- The economics of children's programming means that without intervention international programming can swamp local content (since animation in particular crosses borders easily and can be cheaper to acquire than local original content)

The commercial challenge is evident in the commissioning of UK multichannels – less than 1% of the UK hours they originate are children's TV.<sup>31</sup>

This is not to say that all forms of children's programming are unprofitable. Subscription funded channels can be profitable, as the increasing number available attests. ITV's decision to offer CITV is purely commercial, and so this channel too presumably makes a contribution. However, what all these offers have in common is a heavy dependence on international content and/or repeats.

The combination of high social value but limited commercial interest in original children's programming represents a classic market failure, and as such is why children's TV has always been seen as a core genre for public service broadcasting to deliver. Absent regulatory intervention, too little children's programming will be provided.

### **The UK's plural approach to PSB**

In most markets there are one or more state-owned broadcasters with public service mandates operating alongside entirely commercial broadcasters.

These commercial broadcasters may carry public service obligations, but generally these are low, and apply to all terrestrial broadcasters. For instance, in the US the 'three hour rule' says all such stations must have three hours per week of educational children's TV (with 'educational' broadly defined).

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<sup>31</sup> Ofcom, *Public Service Content in a Connected Society*, 15 December 2014

Over many decades, the UK has taken a different approach, with designated commercial PSBs (Channels 3, 4 and 5). These channels receive distinct benefits unavailable to other commercial broadcasters, notably spectrum and EPG prominence, in exchange for taking on obligations to produce certain beneficial forms of content.

The UK has taken this path to ensure plurality of PSB provision. Ofcom has described the benefits of this as follows:

“Plurality

- Enables the provision of complementary services to different audiences
- Ensures a range of perspectives ...;
- Provides competition to spur innovation and investment in new programme types and format

In addition, plurality can help inform the process of regulation by providing valuable benchmark information about the performance of different providers. ... [C]ompetition for quality in PSB will deliver benefits to viewers, particularly in their capacity as UK citizens ... plurality is needed at three important levels of the broadcasting production and distribution chain:

- Plurality of outlets: so that viewers do not have to be reliant on a single provider in order to receive PSB
- Plurality of commissioning: so that a range of commissioners working for different organisations can bring their different perspectives to bear on the system
- Plurality of production: so that there are different creative organisations competing for commissions.”<sup>32</sup>

More concisely, Ed Richards (then CEO of Ofcom) has said: “plurality in the public's view is a central component at the heart of PSB.”<sup>33</sup>

This does not simply mean there should be multiple providers of PSB content, but with providers specialising in different genres. Rather it means that plurality is important *within* the various PSB genres. In its final statement for the second PSB review, Ofcom stated: “We recognise also the value of choice in public service content for children”.<sup>34</sup>

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<sup>32</sup> Ofcom, *Digital PSB : Public Service Broadcasting post Digital Switchover*, 27 July 2006

<sup>33</sup> Ed Richards [Ofcom], “Ofcom Speech: The Future of Public Broadcasting”, *Broadcast*, 12 March 2008

<sup>34</sup> Ofcom, *Ofcom's Second Public Service Broadcasting Review : Putting Viewers First*, 21 January 2009

## Current performance against PSB objectives

As a genre, children's has suffered badly since the Communications Act. As we have seen, PSB spend on this genre has fallen by 45% in real terms since 2003, much faster than the overall decline in PSB spend. Non-PSB broadcasters are not replacing this spend, with their commissioned hours down since 2008 (the earliest years for which figures are available).

Moreover, while the UK is not without quality children's content, it is very clear that it has become heavily dependent on the BBC for that content. The BBC produces far more hours and spends more per hour, across a much wider array of sub-genres. Spend by other PSBs is minimal, and their schedules give little prominence to children's content.

It is no criticism of the BBC to say that this dependence is unhealthy, particularly since the BBC's own budgets are contracting.

As we have noted, the UK has a plural approach to PSB, and it has invested substantially to create this. Children's TV, though an important genre for PSB, has essentially 'fallen out' of this plural approach.

This concentration creates several problems.

- **It reduces the diversity of programming available to children.** Different organisations will, by their nature, produce different programming. Channel 4 is proud of the distinctiveness of shows such as *Youngers* for young adults, for example. However, to have meaningful impact, there needs to be meaningful volume of such shows with a distinct voice for a children's audience. Children, like adults, want to see themselves portrayed on screen in a way that reflects their diversity
- **It removes a competitive stimulus to the BBC.** Absent competition, the BBC lacks a spur to creativity. It may also tempt the BBC to continue to reduce its own investment in this area
- **It creates a monopsony (single buyer).** The UK has worked hard to create a successful independent production sector. However, for those indies working on children's programming, they are close to having only a single possible UK buyer for their shows. For a pre-school pitch for example, if the CBBC commissioner says no, then that can be the death-knell for that proposal

- It creates risk, since BBC budgets are themselves anyway under pressure. The BBC faces challenges to its funding model and the level of its licence fee. It is also expected to fund an increasing range of media and non-media activities and hours of broadcast per week. This all puts pressure on budgets for television programming, as evidenced by the recent proposal to close the broadcast version of BBC3. It is not safe to presume that BBC children's programming is sacrosanct. Indeed, the combined budget for CBBC and Cbeebies in 2014/15 was £105m, down £3m or 4% in real terms from a year prior.<sup>35</sup> The BBC Trust's Review of Children's Services in 2013 made it clear that BBC Children's spend was not ring-fenced from further cuts in the future.<sup>36</sup> Given the critical role of the BBC as the predominant UK buyer of children's programming, such budget cuts are doubly damaging both for viewers and producers of such programming.

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<sup>35</sup> Service Licences for CBBC and Cbeebies

<sup>36</sup> BBC Trust, *BBC Trust service review - The BBC's children's services*, September 2013

## 5. Policy implications

### Second PSB review – expectations and out-turn

In its January 2009 conclusion to the second PSB review, Ofcom noted

“there are ... areas of public service content where provision beyond the BBC is already under severe pressure. UK programming for school age children is one area of particular concern.”<sup>37</sup>

It noted the importance of plural provision of children’s PSB, and went on to say that if that plurality was not delivered by the recommendations of the review, then “Government should consider funding specifically for children’s content”.

At the time, Ofcom discussed the potential of Channel 4’s then proposed £10m pilot fund for content for children aged 10-15, and also discussed provision by a “second public service institution”. However, it was cautious that this would be sufficient to meet the identified need, and therefore stated that there was a

“clear public interest in addressing the needs of [children] through a competitive funding model”

In reality, none of these concepts have come to pass (for reasons largely beyond Ofcom’s control). Indeed, since 2008 the situation has become even more acute. Commercial PSB spend on children’s content has fallen by a further 77%.<sup>38</sup> The concern expressed by Ofcom about the plurality of supply has been fully justified: as noted above, only the BBC now produces any news, factual or drama programmes aimed at children.<sup>39</sup>

This is of a pattern with the 2003 Communications Act and the HFSS regulation – consequences for children’s TV receive little attention, or if they do, hopeful optimism or simple inertia mean no action is taken.

Earlier attempts to both define, and address, concerns about the future provision of children’s programmes have always taken place against a backdrop of extreme uncertainty about the wider prospects for the plural provision of PSB itself: the uncertainty over Digital

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<sup>37</sup> Ofcom, *Ofcom’s Second Public Service Broadcasting Review : Putting Viewers First*, 21 January 2009

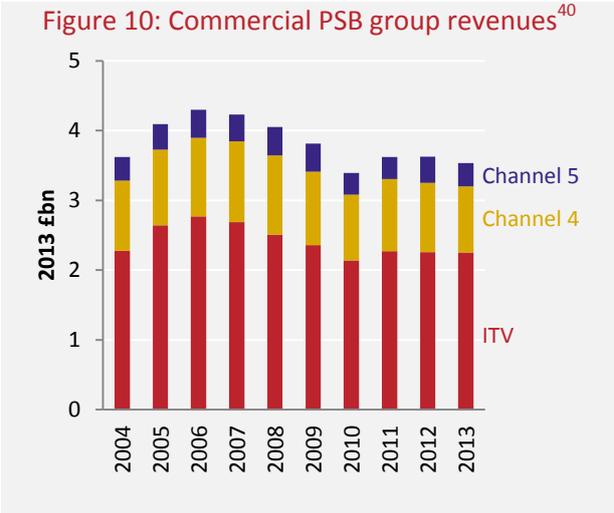
<sup>38</sup> Ofcom, *Children’s analysis [PSB Annual Report]*, December 2014

<sup>39</sup> Ofcom, *Public Service Content in a Connected Society*, 15 December 2014

Switchover, the cyclical decline in traditional advertising revenues, and deeper changes of new models of production, distribution and consumption all took their toll on business confidence. This goes some way to explaining why, taking advantage of the freedom to define their own programme strategy, commercial PSBs have in the main withdrawn from new production; and why the regulator has been either unable or unwilling to impose any new, costly burdens.

However, the DSO transition is now complete, removing substantial risk. Moreover, thanks to their portfolio channels (enabled by DSO), the viewing share captured by the PSB broadcasters is still very healthy – between them they have over 70% audience share.

For the commercial PSBs, their revenues have now stabilized. Indeed in 2013 – the latest available figures – their aggregate revenues were up 8% in real terms, compared to the 2009 trough (Figure 10). Both ITV and Channel 5 also reported record operating profits in 2013.<sup>41</sup> And Ofcom launched its latest PSB Review with the observation that, while uncertainty still exists, its latest review “takes place in circumstance with a degree more stability for the PSBs than our previous two reviews”.<sup>42</sup>



These various developments suggest that the time is right for a reassessment of the treatment of commercial PSB obligations for children. Levels of children’s production have been worse than expected, which would in itself call for a second look. However, the risks to the commercial PSBs, which were a key part of the basis for relaxing children’s requirements in the first place, seem now to be waning.

Moreover the recent children’s and animation tax credits ‘prepares the ground’ for greater PSB production of children’s TV. The credit is expected to encourage inward investment (with overseas production moving to the UK) and to discourage UK commissions being made off-shore. However, it may not tip the balance for UK broadcasters to increase their investment in UK content. That said, if broadcasters were to be given an obligation to invest in UK content, the tax credit decreases any funding deficit associated with that obligation.

<sup>40</sup> Communications Chambers analysis of company accounts  
<sup>41</sup> Ibid. Earnings before interest, tax and amortisation, inflation adjusted  
<sup>42</sup> Ofcom, *Ofcom’s Third Review of Public Service Broadcasting: Terms of Reference*, 27 May 2014

## Implications for the third PSB review

Addressing this issue demands a structural solution, since it is a structural problem in the plural supply of children's programmes that lies at its heart: plurality in the supply of new, UK originated and culturally specific programming, the bedrock of the UK approach to the system of PSB, simply no longer works for this crucial genre.

And the sustained level of audience satisfaction that Ofcom points to<sup>43</sup>, while reassuring, does not address the plurality concern since, by definition, the PSB provision that the audience is referring to comes in very large measure from the BBC. (As we have noted, parents questioned for Ofcom's research rate plurality of provision as important.)

By definition, the status quo – effectively leaving it to the BBC – fails to address this problem, and, for the reasons given above, fails both to guarantee adequate future investment from the BBC, and absolves the other PSB providers from any responsibility for making up any shortfall either in levels of investment or diversity of output and approach.

Ofcom has itself trailed, but effectively ruled out any discussion of contestable funding at this stage, acknowledging that it could only be a solution to under-supply if additional funding was found.<sup>44</sup> Given the historic lack of industry or political support, we think it unlikely that Ofcom will find much support for further exploring this route.

The structural interventions available to Ofcom therefore rest on its ability to secure additional investment from the commercial PSBs. There are two broad approaches Ofcom could explore.

The first would be to **redraw the boundary between Tier 2 and Tier 3 regulation** and bring children's programmes within the protective shield of investment or scheduling quotas. This would allow Ofcom to require whichever it deemed most appropriate of ITV, Channel 4 and Five to commit to specific levels of original production, and hold them to it as part of their licence requirement.

The attraction of such an approach would be its clarity: Tier 2 obligations are the most durable instruments for securing sustained and significant investment in particular types of content. And to the argument that Children's programmes might be enjoying an advantage that should realistically be also offered to other PSB

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<sup>43</sup> Ofcom, *Ofcom's Third Review of Public Service Broadcasting: Terms of Reference*, 27 May 2014: section 3.112

<sup>44</sup> Ofcom, *Public Service Content in a Connected Society*, 15 December 2014: section 6.62.5

genres that have suffered reduced investment over the last decade, particularly on commercial PSB channels, the response could be made that children's programmes are, in effect, more than a single genre: that within the broad description of children's programmes is contained a vitally important set of programme types – news and information programmes, drama and entertainment – which are of undoubted public value.

However, not only would such a change require primary legislation; it would also face the challenge of recreating, for ITV, a children's audience that has largely migrated to CITV and other specific children's channels<sup>45</sup>. Five might be expected to enhance its investment, rather than the quantity of hours shown.

The second approach – which would not require primary legislation and which would have been more heavily trailed by Ofcom, would be to **apply PSB status to institutions rather than channels**. Portfolio channels could then be granted PSB benefits in return for commitments to specific production or scheduling obligations.

But as Ofcom also notes, this approach is not without its risks. Guaranteed scheduling on the "main" PSB channels may be the best guarantee of both prominence and levels of investment. Allowing PSB obligations to be met on channels with lower audience expectations and smaller programme budgets may not be the optimal way to secure the long term case for niche or commercially challenging PSB genres. Ofcom also points to the potentially burdensome interventions it might need to ensure that any commercial uplift gained by the PSBs in freeing up airtime on their main channel is captured with higher levels of investment in demonstrably PSB programming.

Nevertheless, allowing the commercial PSBs to discharge a children's production obligation via portfolio channels decreases the opportunity cost of that obligation. There would be no need to displace more purely commercial content on the main channel. By the same token, however, the various commercial advantages of PSB status would need to be captured in obligations that would, in effect, be some form of investment quota.

Whichever route Ofcom considers, if it accepts that the plurality problem it noted in previous reviews is not only still there, but

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<sup>45</sup> BBC quotas are a matter for the BBC Trust; but given that all licence fee funded channels are deemed PSB, it must be assumed that children's programmes would remain on CBBC and Cbeebies

getting worse, then it may have to consider introducing some form of binding obligations on the PSBs to redress it.

### **Non-PSB output**

The focus of our analysis for solutions has been on the structure of PSB – not least because it is in response to a PSB Review. But if the goal is to secure higher, and sustainable, levels of investment in original, culturally appropriate children’s programmes, then the level of UK content carried by the non-PSB channels remains an area that the regulator could address.

Ofcom’s figures show that only 14% of the output on the commercial children’s channels is of UK origin. This suggests that the proportion of European works is far from the 50% target required under the relevant European legislation. While Ofcom is given some discretion in applying the target - “where practicable and by appropriate means” – there may nevertheless be scope for more active enforcement of these rules.