

UK RESPONSE TO THE COMMISSION QUESTIONNAIRE ON PUBLIC SERVICE BROADCASTING

1. General

Introduction: PSB in the UK

1. By way of introduction, it may assist the Commission if the United Kingdom puts its comments in context, by explaining the current state of public service broadcasting in the UK, and its evolution to date.

2. The main public service television broadcasters in the UK are the British Broadcasting Corporation ("BBC"), Channel 3,¹ the Channel 4 Television Corporation (providing the Channel 4 service) and Channel 5 ("Five").² The BBC also provides public service radio broadcasting on both analogue and digital platforms.

3. The system has developed gradually, and as a result each broadcaster has its own characteristics, remit and funding. The UK Government considers that each makes its own particular contribution to the quality, vitality and diversity of public service broadcasting in the UK; one of the reforms made by the Communications Act 2003 to the regulatory regime was to give the national regulator, Ofcom, a specific and continuing role in monitoring the state of public service television broadcasting and making recommendations.

4. The regulatory system and the principal public service broadcasters in the UK are described in more detail in the Annex to this letter. Channel 3, Channel 4 and Channel 5 are all provided under licences issued by Ofcom; hence in this paper they are referred to together as "the licensed PSBs".

¹ Or "ITV" – although it is only the channel now branded as ITV1 that is a PSB channel. Other channels using the ITV name are free-to-view commercial channels. The Annex describes how the Channel 3 service is in fact made up of a number of regional channels, albeit now predominantly under common ownership.

² Sianel Pedwar Cymru ("S4C") is the fourth channel in Wales. There is also a public teletext service.

Is there a need for revision?

5. The United Kingdom has found the current Communication to be sufficient for our needs to date. However, we note that the Commission's decision-making practice has evolved and refined since 2001. This is unsurprising, given the rapid development of technology in this area, as well as the development of thinking on Services of General Economic Interest (SGEI) more generally. We feel that it is important that these changes are clearly reflected in the Communication, and that (so far as possible) the Communication also reflects any future changes that can be predicted. Member States and recipient undertakings need to know in advance how the Commission will approach a given measure.

6. The UK strongly believes in a place within the EU for PSB and also is firmly of the view that the PSB remit should be for each individual Member State, taking into account its cultural and democratic needs. We note that this is clearly reflected in the Amsterdam Protocol. However this must be balanced with the need to ensure that there is an effective market in communications services. We believe that this points to a review which seeks to build on the current Communication, strengthening and clarifying where necessary, rather than completely rewriting it.

The Current Competitive Situation in UK audio visual markets

7. The main players in the UK audiovisual media sector are:

- the PSBs (see Annex) – the BBC, Channel 3, Channel 4 and Channel 5; and
- those providing commercial TV services, which may either be pay-TV or free-to-view.

These channels are provided on a range of platforms. The PSBs are available on terrestrial analogue television to about 98% of the population. Most households (85.1%) now have digital services, via DTT (or "Freeview"), satellite (BSkyB) or cable (Virgin Media). The digital platforms give access to the PSBs (including some BBC channels that are not available on analogue, because of capacity restrictions), free-to-view commercial channels, and pay-TV. Although pay-TV channels are predominantly on the satellite and cable platforms, some (e.g. Setanta Sports and a number of general entertainment channels) are available as pay services on DTT (through Top-Up TV). Audiovisual media services can increasingly be accessed through on-demand internet

based services. Radio services are also provided by the BBC and by commercial providers, both locally and nationally, and on both analogue and digital platforms, including, again, via the internet.

8. The variety of providers and platforms means that generally speaking the consumer has a number of choices for their audiovisual media service provider resulting in a competitive market. The table below gives the breakdown on market share between the main providers. The market is open to new entrants: for example, BT Vision launched in 2007. The success of new internet-based sources (e.g. 4oD and BBC iPlayer) demonstrates the ability of consumers to switch their consumption from one platform to another. Finally the relatively high rates of churn of the pay-TV providers (Virgin 20% and Sky 11%) indicates consumers are not locked in.

UK Annual % Shares of Viewing (Individuals) 1981-2007

YEAR	CHANNEL					
	BBC1	BBC2	ITV 1 (inc GMTV)	C4	five	Others
1981	39	12	49	-	-	-
1982	38	12	50	-	-	-
1983	37	11	48	4	-	-
1984	36	11	48	6	-	-
1985	36	11	46	7	-	-
1986	37	11	44	8	-	-
1987	38	12	42	8	-	-
1988	38	11	42	9	-	-
1989	39	11	42	9	-	-
1990	37	10	44	9	-	-
1991	34	10	42	10	-	4
1992	34	10	41	10	-	5
1993	33	10	40	11	-	6
1994	32	11	39	11	-	7
1995	32	11	37	11	-	9
1996	33.5	11.5	35.1	10.7	-	10.1
1997	30.8	11.6	32.9	10.6	2.3	11.8
1998	29.5	11.3	31.7	10.3	4.3	12.9
1999	28.4	10.8	31.2	10.3	5.4	14.0
2000	27.2	10.8	29.3	10.5	5.7	16.6
2001	26.9	11.1	26.7	10.0	5.8	19.6
2002	26.2	11.4	24.1	10.0	6.3	22.1
2003	25.6	11.0	23.7	9.6	6.5	23.6
2004	24.7	10.0	22.8	9.7	6.6	26.2

2005	23.3	9.4	21.5	9.7	6.4	29.6
2006	22.8	8.8	19.6	9.8	5.7	33.3
2007	22.0	8.5	19.2	8.6	5.1	36.5

NB. Shares before 1996 have been rounded to nearest whole number

Future Developments

9.. It is difficult to know exactly what the audio-visual market will look like in future. We do see that one of the major challenges for Public Service Broadcasters in this market will be identifying and serving an audience in the face of a greatly expanded range of alternative services.. This means that PSB operators will need to be more innovative and creative which may present increased risks of undue distortion of competition. We believe that this distortion can be limited to that necessary to fulfil the public service remit by a two pronged approach. On the one hand it is for Member States to ensure that there is a clear and adequate PSB remit, preferably one which has been subject to extensive public consultation to allow competitors to comment. On the other hand, the Communication must be flexible enough to allow for new activities in the market and possibly even new means of funding.

10. As noted above we consider that the Communication has been adequate to date, but we recognise that a document which was drawn up in 2001 may not be able fully to meet future needs (some of which we can only currently guess at) without revision. The increasing convergence between the telecommunications and broadcasting sectors as well as the increased availability of content across a range of platforms may raise issues for the regulatory framework in the future. In the UK, for example this is typified by key players in the sectors increasingly offering a range of services – BT offering TV, BSkyB as a broadband provider and Virgin Media offering TV, fixed and mobile telecommunications and broadband. The UK Government has set up the “Convergence Think Tank” to provide a forum for an exploration of the impact of convergence including the place of PSB. The new Audiovisual Media Services Directive is a clear example of EU regulation moving ahead with technological developments. We therefore believe that the time is right for a review.

2. COMPATIBILITY ASSESSEMENT UNDER ARTICLE 86(2), IN COMBINATION WITH THE BROADCASTING COMMUNICATION

Coherence with Commission Decision and Framework on public service compensation

11. When the Communication was drawn up in 2001 the case law on SGEI more generally was still somewhat in flux, with a number of cases pending before the Court. However, now that the case law is more settled (see especially *Altmark Trans GmbH*, Case C-280/00) and the Commission have produced their Decision and Framework we consider that there may be merit in including some of these principles in the Communication. Indeed, any public service can be argued to have special characteristics which Member States wish to preserve, and so broadcasting cannot expect to be treated differently without a clear justification for doing so.

12. We believe that the requirement in the Framework and Decision to have an instrument setting out the public service obligations which will be compensated and the invitation to Member States to consult widely on the terms of these obligations should be adopted. It is essential in a multi-player market that all know exactly what a competitor is being paid to do. As with the Decision and Framework, the actual detail of these obligations must be left to the Member State, but as the need for an entrustment document as specified has not so far caused problems for other SGEIs we see no reason why it should be problematic in broadcasting.

13. Even accepting (as we do) the need to avoid over-compensation, we also think that the cost allocation method as provided in the Framework and Decision might be problematic. Although a number of programmes which are originally made for the PSB remit are then sold on commercially, and although at the time of making the programme there may well be an intention or wish to do so, this cannot be guaranteed nor can there be a guarantee on the amount of money received. It could therefore be problematic to allocate costs between PSB and commercial at the start. However, certainly in the UK, money received by the BBC for their programmes is channelled back into the PSB side thus reducing the need for further funding. Hence, at the aggregate level, the possible revenue from commercial sales of PSB programming is taken into account, even though that is impossible (at least according to the UK's PSB funding models) at a more detailed level (e.g. programme-by-programme or genre-by-genre).

2.2 Definition of the public service remit

BBC

14. In the UK the public service remit for the BBC is set out at the highest level in the public purposes section of the BBC Royal Charter and elaborated first by provisions in the Agreement and then in more specific terms by the regulator, the BBC Trust, in its setting of strategies and issuing of service licences. Before a service licence is issued the Trust undertakes a Public Value Test (PVT) where it consults widely on the whether this service fulfils the public purposes. There is also a Market Impact Assessment carried out by the sector regulator, the Office of Communications (Ofcom), to test the possible effects on the market. This would apply equally to new media services.

Channels 3, 4 and 5

15. For Channel 3 and Channel 5, the remit is set out in the Communications Act 2003. Channel 4 is in a similar position although its remit is more closely defined in that Act.³ Further details appear in the Annex.

Need for further clarification?

16. In the case of the BBC, we consider that this approach of a high level definition by the State and more detailed work by regulators is sufficient to distinguish between public service and commercial activities. The Public Value Test and Market Impact Assessment can, in our view, be useful tools in minimising distortions of the market or misuse of the PSB concept. We believe that active consultation with the market is more effective than a list of commercial and non-commercial activities which can quickly become outmoded and may prove too limiting. As for the licensed PSBs, which do not receive direct State financial support, the issue is slightly different: the remit provides parameters, subject to

³ Other statutory provisions provide for quotas e.g. for original, independent and regional productions and regional programming, and prescribe as well Channel 3's arrangements for networking and news provision. These are then elaborated in the licences issued by Ofcom. The Annex explains how, overall, the reforms in the Communications Act 2003 have led to more self-regulation and less micro-management of remits by the regulator.

which the broadcasters are free to maximise the commercial value of their programming. Again, we consider this approach to be effective in the UK context.

Activities other than traditional TV programmes

17. We consider that as long as these other activities meet the terms of the PSB remit (in the UK in the case of the BBC this would mean that they had passed a PVT and Market Impact Assessment) there should be nothing to prevent them being provided and funded. We can see the apparent attractions – e.g. certainty – of going into more specific detail but we feel that given the amount of change and development in the market, it would be better to retain a more fluid definition. More importantly, it seems to us that it matters less what the actual service might be than that it meets a PSB remit. This points, as we have said before, to Member States ensuring that this is robust. Again, the issue does not really arise for the other (non-aided) UK PSBs.

Ex ante evaluation

18. As described above in the UK we have ex ante evaluation of all BBC services already. There is no emphasis on whether this is a new media activity or more traditional programme making. Whilst we believe that this is a good method of ensuring that a particular service meets the PSB remit and that distortions of competition are kept to a minimum, we accept that this may not suit every Member State's system.

19. Whilst we understand the Commission's concerns about new media activities – these are developing markets where a state funded player could arguably have a disproportionate effect – we wonder whether all the emphasis should be put on this. It may be preferable to say that all services should be subject to ex ante evaluation. Distortions can after all occur in all areas. In the case of the UK, innovation by the PSBs – especially the BBC – has actually helped to create markets where none existed before. Take, for instance, the impetus that new BBC digital channels and investment in DTT gave to digital television; the effect of BBC Online in encouraging more people to use the internet; and the BBC's investment in on-demand services, such as "listen again" for radio, and catch-up for TV, all based on broadband.

20. Given the different approaches to determining public service activities in the various Member States we wonder how far a revised Communication could be prescriptive.

There may be merit in setting out some basic minimum requirements – such as consultation with third parties and the need to meet citizen needs – but phrased as in the Framework in terms of Member States being invited to follow this model. It should however be made clear that the Commission will not impose a preferred model on a Member State in the context of a notification.

2.3 Entrustment And Supervision

21. Please see the Annex for details of the entrustment and supervision of BBC and licensed PSB services.

22. If a third party had concerns about the BBC's failure to deliver on its public service obligations it would be able to direct these concerns to the BBC Trust, which holds the main regulatory role, or to Ofcom. The Trust's regulatory role is set out in the Royal Charter. In respect of the licensed public service broadcasters, in the case of a simple breach of a licence obligation – such as in failing to meet a quota – Ofcom could take direct regulatory action. As respects some of the less objectively defined aspects of the remit, direct action would be possible in the case of a clear and sudden failure (e.g. dropping a significant PSB genre from the schedules), but may take place over a longer timescale in the case of more subtle or cumulative changes: see the Annex. If Ofcom considers that a licensed PSB broadcaster is not delivering its remit or is not making an adequate contribution to the fulfilment of the purposes of public service broadcasting it can issue remedial directions; ultimately, it can impose specific and detailed licence conditions to correct the failure.

23. We believe that supervisory powers correctly lie with independent regulators. This is the only way to give confidence to competitors and the general public. We consider that the Communication already provides adequate guidance on this point and that it should be left to individual Member States to determine how independent regulation works in their particular circumstances.

24. We agree that complaints about the PSB remit should in the first instance be referred to the national independent regulator(s). They have the investigatory powers and can take direct action. We consider that a national complaints system which worked properly could also reduce the Commission's work load, as they would not have to open investigations simply because competitors had no other means of redress.

2.4 Dual Funding Of Public Service Broadcasters

25. As a general principle pay services may appear to be at odds with the PSB ethos that services should be free at the point of delivery, but in our view this merely represents one way of paying for PSB services. It may be appropriate in particular circumstances, and should be tested according to the normal rules.

2.5 Transparency Requirements

26. It is essential that there is transparency between public service and purely commercial activities. This ensures that there is no cross subsidy between the two and reassures tax payers and competitors. There needs to be a clear audit trail to show that state money is being used only for public purposes. This is the rationale behind the Financial Transparency Directive.

27. The BBC observes a strict functional and structural separation between its commercial and public service activities. This is reflected in the terms of the Charter and Agreement. The Corporation itself is not permitted to provide commercial services, and so it must do so through subsidiary companies. We regard this as a highly effective model but recognise that this is not the only model which could produce the same result and such a model is not required in our legislation. Thus, although Channel 4 meets its legal obligation to ensure an appropriate financial and organisational separation between its core functions (providing Channel 4) and its commercial functions through a structural division using subsidiary and holding companies this is their choice and is not specified in statute.

28. Turning to cost allocation we believe that the current rules are sufficient. As mentioned above, we consider that all costs of a programme which meets the PSB remit should be able to be attributed to the PSB even if it is later sold on.

29. We are not convinced that anything further needs to be said on transparency in the Communication. We feel that as far as the separation between PSB and commercial activities is concerned it should be enough to insist as in the Framework and Decision that the beneficiaries must comply with the Financial Transparency Directive. We see no need for any further detail on cost allocation.

2.7 Proportionality Test – Exclusion Of Overcompensation

30. We do not see the need for parameters to be laid down, and indeed we see risks to the independence of broadcasters from Government in such an approach. Some principles or criteria might, however, be appropriate. In the case of the UK, in setting the level of compensation that is regarded as appropriate for the BBC, we do not start with a blank sheet of paper. The BBC is a long-standing institution, and this puts us in the position (as we did with the 2006 reforms) of looking critically at what the BBC has provided in the past and is presently providing to see whether it meets the Government's expectations – as for instance restated in the Public Purposes in the 2006 Royal Charter. As we have explained, in the UK we set the BBC's remit at a high level in the Charter and then leave detail to the BBC Executive and its regulator the BBC Trust. We would certainly feel that it was inappropriate and at odds with the independence of the BBC to be more specific and allocate amounts of money to certain activities. This should properly be left to the Trust, in the case of the BBC. Current BBC service provision therefore provides the starting point, but as well as reviewing that, other principles are also taken into consideration in deciding what level of funding is appropriate and proportionate. This includes considering what it is right to ask licence-fee payers to pay each year, and examining rigorously the possible scope for efficiency savings in the way the BBC is run.

31. We consider that the Framework should allow as much flexibility as possible in funding, consistent of course with the need to avoid undue distortions of competition. We think that the terms of the current Communication strike this balance. It is important that the possibility of pluri-annual funding is retained to allow the broadcasters to plan effectively (thus making the best use of support) but also to help protect the independence of the PSB operator. If a broadcaster has constantly to come back to the state for funding it may make it more difficult to preserve a truly independent line, or at least there may be the impression that this is so.

32. We thus feel that there may be grounds for PSB operators to retain a surplus if it allowed them some flexibility over a given period. There may be circumstances, for example the current credit difficulties, which a broadcaster could not have foreseen and where it is right that they should have the necessary flexibility. We would therefore not rule out the possibility of including this in a revised Communication. Indeed, if other SGEI providers are allowed to keep a surplus of up to 10% there may be a question as to why broadcasters are not. However, if a broadcaster was constantly enjoying surpluses this would suggest that the level of funding (or even the funding mechanism itself) needed to be reconsidered. There would also need to be supervision of the way these surpluses were being spent to ensure that they were supporting the public service remit. However, this could form part of the normal

supervision by regulators. As for the possibility of making a profit from state funding, we are unconvinced of the need for this in the UK.

2.7 Proportionality Test – Exclusion Of Market Distortions Not Necessary For The Fulfilment Of The Public Service Mission

33. In the UK a private operator could challenge alleged anti-competitive behaviour by a public service broadcaster by complaining to—

- OFT or the courts, on grounds of general competition law (although OFT ought to cede jurisdiction to Ofcom, where they have concurrent powers, in relation to communications matters)
- Ofcom, either on grounds of a breach of licence conditions relating to competition in the case of a broadcaster regulated by Ofcom or on grounds of general competition law;
- the Commission, especially in connection with State aids; or
- in the case of the BBC, the BBC Trust.

34. In our view this provides sufficient and effective control. In the UK context we have no need to factor anti-competitive behaviour into our determination of the licence fee. We do not think the issue arises. Commercial activities (e.g. selling programmes to other broadcasters, or marketing DVDs and books) are undertaken solely by the BBC's commercial arm, which receives no State funding. Indeed, the commercial arm seeks to maximise the revenue it provides to the public side, so it is hard to see any incentive to undercharge. The BBC's Fair Trading policies and normal competition law would deal with any predatory pricing.

35. Public service broadcasters must respect market conditions when carrying out commercial activities – their status as a PSB operator cannot be used to justify distorting other markets. However, beyond a strong statement that this must be the case, it is difficult to see what else the Communication could do. As paragraph 60 of the current Communication makes clear, it is very difficult for the Commission to determine in advance whether the prices charged by broadcasters for non public services are in line with commercial practice in a particular Member State. This has to be left to consideration of individual cases. There may well also be a case for involving the independent regulatory body in Member States to monitor the effect of state subsidised broadcasters on the commercial market.

3 . FINAL REMARKS

36. In the UK we have already moved to a system of market impact testing for the BBC. Although this has only formally been in operation for just over a year, it has not so far proved disadvantageous to the BBC and appears generally to command confidence across the wider market. This of course does only refer to our specific situation, which we appreciate may not be the same as in other Member States. However this does tend to suggest that testing of the PSB remit and of the impact on the commercial sector can have a place. Whilst the focus must be on ensuring that there is a strong PSB sector which represents the social, cultural and democratic needs of Member States, it should not be at the expense of others in the market. This is not in the interests of consumers or of ensuring a healthy and innovative audiovisual sector.

37. We believe that the more clarification that the Commission can give in advance the better. We feel this helps both the Member State and the beneficiary. This clarity need not detract from Member States' right to define the PSB remit and operate this as they see fit – this is after all, a right set out in Article 16 of the Treaty and in the Amsterdam Protocol. In state aid, policy is often made through the Commission's handling of particular cases. This is to an extent inevitable as Member States will often come forward with a scenario not previously considered and no set of guidelines can ever be all inclusive. However, this may become problematic if changes in thinking over time are not reflected in the Communication. We therefore suggest that any new Communication has a built-in review clause, perhaps for five years from the date of publication in the Official Journal. Given the pace of change in the sector this would seem a sensible course in any case.

Annex: Public service broadcasting in the UK

Ofcom's role in monitoring PSB delivery as a whole

A1 Section 264 of the Communications Act 2003 defines "the purposes of public service television broadcasting in the UK", including certain general aims (e.g. that such broadcasting should entertain, inform and educate, and reflect the UK's diverse population) and the principal programme genres that should be represented. Licensees (and the BBC, under the Agreement – see paragraph 4 below) each publish an annual Statement of Programme Policy, setting out how they intend to fulfil their respective remits.

A2 Ofcom has power to make an individual licensee change its Statement if it represents too much of a departure from previous years' mix of programme genres, or if a particular broadcaster seems not to be making a sufficient contribution to public service television broadcasting. All the PSB broadcasters must produce implementing measures which are in the public domain. Each licensed broadcaster's Statement forms an important part of the process by which Ofcom supervises the delivery of each licensed broadcaster's public service remit, seeking (in particular) to identify and halt any risk of a broadcaster gradually drifting away from its public service commitments by incremental changes. Ofcom regularly reviews the extent to which the public service broadcasters, taken together, have fulfilled the purposes of public service broadcasting in the UK, ensuring (amongst other things) that each has made a proper contribution to the attainment of those purposes. Direct supervision of the BBC's Statements are a matter for the Trust, not Ofcom.

A3 At a higher level, each year Ofcom publishes a factual and statistical statement about the broadcasting market in the UK as a whole, and every five years must conduct a review of public service television broadcasting with a view to ascertaining the extent to which (taken together) the public service broadcasters have fulfilled the purposes of such broadcasting in the UK and making recommendations. Ofcom has just embarked on the second such review, the first having been conducted in 2003 – 2004.

A4 This Annex will look at each broadcaster in more detail.

The BBC

A5 The BBC was founded in 1922, and since 1927 has been a corporation established under a Royal Charter. It is funded predominantly by revenue from the TV licence fee levied on all users of television receiving equipment. Its constitution and remit were newly set out in the current Royal Charter and an Agreement with the Secretary of State for Culture, Media and Sport, both finalised in 2006.

A6 The principal innovation of the 2006 reforms (which were the culmination of a three-year review project that included extensive consultations with the public, broadcasters and other businesses and media experts) was that the previous Board of Governors was replaced by a dual structure. Now, the operations of the BBC are under the management of the BBC Executive, while the strategic direction of the corporation is set by the BBC Trust. The Trust also acts as regulator, holding the Executive to account for delivery of the BBC's remit and compliance with legal and other regulatory requirements, including oversight of the BBC's fair trading practices and its impact on the broadcasting market generally. The BBC's public services (TV, radio and online) have "service licences" issued by the Trust.

A7 The BBC has a commercial arm which is operationally, constitutionally and structurally separate from the corporation. This ensures that no licence fee money passes into the commercial arm, although the commercial arm's profits are remitted to the public side, and help pay for the public service activities of the BBC.

A8 As noted above, the BBC is largely regulated by the Trust. Another innovation of the 2006 reforms was the creation of "Public Value Tests". In conducting such a test, the Trust assesses the public value of a proposed new BBC activity, looking, in particular, at value for money and the contribution a new activity would make to the delivery of the "Public Purposes" set out in the Charter. Against that they balance the possible impact of that activity on the broadcasting market, as assessed by Ofcom, before deciding whether to permit the new activity to go ahead.

A9 Ofcom also has a role in relation to some content issues and certain quotas (e.g. for regional, independent and original productions), and ultimately has jurisdiction over the BBC as regards the application of general competition law.

ITV

A10 For a long while, the BBC was the UK's only broadcaster; commercial television broadcasting began in 1955. The system was reformed in 1990, leading to the awarding by the regulator (now Ofcom) of licences to provide television services across the UK, organised on a regional basis. Hence, the UK is for this purpose divided into geographical regions and one (for London, two) licences are awarded for each.⁴ There is also a single national service which operates across all regions early in the morning. The licences were awarded on the basis of monetary bids – subject to meeting a basic quality threshold, the highest bidder won the licence.

⁴ This remains the case, although all but three of the regional licences are now held by companies ultimately controlled by ITV plc. This is the culmination of a process of consolidation that has taken place since the licences were originally awarded.

A11 The services carry advertising and sponsorship and are entirely funded by commercial revenue: they receive no direct State financial support. Every licensee makes annual payments to the Treasury (via Ofcom) based on advertising and sponsorship revenue and its monetary bid. Those payments are index-linked but are also comprehensively reviewed from time to time, in line with a statutory timetable for renewing the licences, the most recent review being in 2005.

A12 The public service remit is set out in statute and elaborated in some respects in the licences. ITV is regulated by Ofcom.

Channel 4

A13 The Channel 4 Television Corporation is a public corporation with no shareholders whose primary purpose, under statute, is the provision of the Channel 4 service. Channel 4's remit is set out in statute and is more prescriptive than ITV's: in particular, Channel 4 has a responsibility to seek to be innovative and experimental. Channel 4 currently receives no direct State financial support⁵ and its aim is to maximise public service output while being entirely funded by advertising and sponsorship, along with other commercial activities including a number of digital channels which run alongside Channel 4 itself. Channel 4 has a licence and is regulated by Ofcom.

Five

A14 Provision for the establishment of Channel 5 was made in 1990, though broadcasting on the channel did not begin until 1997). It consists of a single national service which initially was received (in analogue form) by only some 75% of the population of the UK, but that figure is now higher with digital transmissions, satellite and cable. In many other respects the service is like ITV: it has a licence (issued after an auction similar to ITV's), is regulated by Ofcom and is funded by advertising and sponsorship and other commercial activities. It, too, makes payments via Ofcom to the Treasury (see above). Its remit is set out in statute and is similar to ITV's.

⁵ The UK submitted a notification which is currently under consideration by the Commission relating to proposed aid for the Corporation's capital costs of digital switchover: N 589 /2007

