

[Lunt, Peter](#) and [Livingstone, Sonia](#) and [Brevini, Benedetta](#)

## Changing regimes of regulation: implications for public service broadcasting.

### Book section

**Original citation:**

Lunt, Peter and Livingstone, Sonia and Brevini, Benedetta (2012) *Changing regimes of regulation: implications for public service broadcasting*. In: Lowe, Gregory Ferrell and Steemers, Jeanette, (eds.) *Regaining the initiative for public service media, RIPE@2011*. Nordicom, University of Gothenberg, Gothenburg, Sweden, pp. 113-130. ISBN 9789186523336

© 2012 [The Authors](#)

This version available at: <http://eprints.lse.ac.uk/48959/>

Available in LSE Research Online: April 2013

[Any publisher copyright statement goes here]

LSE has developed LSE Research Online so that users may access research output of the School. Copyright © and Moral Rights for the papers on this site are retained by the individual authors and/or other copyright owners. Users may download and/or print one copy of any article(s) in LSE Research Online to facilitate their private study or for non-commercial research. You may not engage in further distribution of the material or use it for any profit-making activities or any commercial gain. You may freely distribute the URL (<http://eprints.lse.ac.uk>) of the LSE Research Online website.

**Original citation:**

Lunt, P., Livingstone, S., and Brevini, B. (2012) Changing regimes of regulation: implications for public service broadcasting. In G. Lowe and J. Steemers (Eds.), *RIPE@2011: Regaining the initiative for public service media* (pp.113-130). Goteborg: Nordicom.

**Changing Regimes of Regulation:  
*Implications For Public Service Broadcasting***

Peter Lunt,  
Sonia Livingstone &  
Benedetta Brevini

Around the world, public service broadcasting [PSB] is under pressure. Challenges to its rationale, audience, income and legitimacy are manifold today, especially the globalising communications market, technological convergence and diversification of content delivery, increasing competition for advertising and other revenues, and a political climate that prioritises economic over social and cultural policy (Raboy 2008). Is PSB the anachronistic legacy of a dying welfare liberal regime, or does it advocate crucial democratic and cultural values that continue to have relevance? Should public funds support existing providers, or be extended to encompass a plurality of content providers or, merely, be concentrated on cases of market failure (Gibbons 2009)? Difficult questions are being asked in different countries in different ways, depending on the size of the existing media system, the strength of its public service broadcasters and the level of dependency between broadcasters and the state (Iosofidis 2010).

In the UK, public service broadcasters have sustained a substantial if declining share of the market, certainly remaining strong by comparison with public broadcasting in other countries. The BBC lost its monopoly position in the 1950s, followed by a duopoly comprised of the BBC and ITV. The system was later evolved into a mixed market that includes commercial PSB providers, especially Channel Four and Five. Despite so much change, the BBC remains at the core of the UK media system, valued highly by the public and across the political spectrum (Collins and Murrioni 1996). But even here in ‘the heartland’ of its initiation and development, the challenges are growing. To have a sustainable future, it is vital for PSB to earnestly pursue considerable innovation in organisation, funding and platforms.

This chapter focuses less on practical adjustments and privileges the more fundamental importance of the rationale that provides legitimacy for PSB in the first place. Our study investigates how the traditionally strong BBC has undergone critical scrutiny and public contestation over the past decade, orchestrated by the UK’s largely market-focused regulator, the Office of Communications [Ofcom]. Bolstered by its self-avowed ‘philosophy’ of asking the big questions as well as by its comfortable centrality to the New Labour project of regulatory reform, Ofcom began by asking whether incremental adaptation can really preserve what is of value in public service media [PSM] or whether, instead, radical changes are needed. It raised

the possibility that at some point in the foreseeable future PSB as a publicly funded venture would and should even give way to a fully commercial media system. Although Ofcom came to moderate its initial views for a range of reasons elucidated below, we argue that policy debates during the first decade of this century have diminished the autonomy and self-determination of PSB in the UK – as has arguably been the case elsewhere.

Of course, the BBC has adapted, in many ways successfully. The company has broadened programme forms, platforms and content – becoming in some ways more populist in orientation. Some see this as evidence of the BBC losing its way (Barnett and Seaton 2010; Born 2004). The historic legacy of left wing critics have more recently been joined by those who celebrate the innovative potential of liberalised markets and new technologies. Both sides, in a sense all sides, now accusing the BBC of being a conservative force in British Broadcasting, albeit with different inflections. For the former the BBC is accused of defining the public interest from an elite perspective, while for the latter it is construed as a brake on innovation. The two camps agree in criticism that the BBC is too powerful in the British market, relatively unaccountable to its public, and too close to government (Jakubovitz 2007; Livingstone and Lunt 1994). Although the principle of financial independence, either through the license fee or favourable prices for commercial licenses in return for public service content, as well as freedom from political interference, is still broadly supported, governments no longer accord the BBC a special place in the nation's infrastructure. Government instead insists that the enterprise must demonstrable value for money with measurable public value in the field of media and communications, the same as in any other field of publicly funded activity. In this contested and fast-changing context, our purpose is to ask how supporters of PSB, including the BBC and other PSB companies in-house, might regain the initiative? We begin by setting our UK case study in a wider context.

### **Media policy and regulation in Europe**

“New regulatory authorities are being created, with new structures, degrees of independence and areas of competence: monitoring of public service missions, granting private licenses [with the] capacity to regulate and sanction”  
(Bustamante 2008: 188).

In Europe, there has been extensive public debate and discussion about the role and scope of PSB and what constitutes public value in communications. Of course Europe has a strong PSB tradition, especially the case in northern Europe (c.f. Iosifidis 2010; Lowe & Hujanen 2002; Blumler 1992), and this accounts for much of the public concern over potential threats. Originating in the reconstruction of nation states in the post-war period (Uricchio 2009), support for PSB in Europe has focused on its social and cultural purposes in contributing to national cultures and democracies (Lowe & Jauert 2005) – a very different approach compared with the USA where federal communications regulation prioritised market competition. As Hallin and Mancini argued (2004:49), “just as the state in Europe is expected to play an active role in ... maintaining the health of national industries, it is expected to intervene in media markets to accomplish a variety of collective goals”.

In the 1980s, however, European audiovisual policy shifted in response to increasing global competition in the media and communications sector, among other things, to support market developments through regulatory efforts to bring about (partial) economic and technical harmonisation, although leaving the member states of the European Union considerable autonomy and competence regarding cultural policy (Bustamante 2008; Michalis 2007; Harcourt 2005; Majone 1998; Humphreys 1996; Collins 1994). It was left to national regulatory authorities to make sense of the sometimes contrary imperatives as they sought to co-ordinate economic policy across Europe to strengthen a common market by implementing directives from the EU in the member states to ensure market performance and consumer protection while, at the same time, fostering national cultural policies.

Majone (1998:199) outlined the potential advantages of national regulatory agencies operating in a dynamic market while also facing complex social and cultural policy issues. They have the capacity and expertise to deal with complex technical and market issues that impact both firms and consumers, they offer a flexible way of delivering government policy in co-operation with industry and consumer representatives alike, they afford the opportunity for consultation and public engagement, and they ensure sufficient continuity for markets and consumers across changing governments. They also, and this being the reason why Europe requires their existence, provide the necessary link to European institutions and other member states while delivering the cultural policies of their own governments (Michalis 2007).

As Europe moves towards greater market integration, a critical question is whether regulation will follow the US model or whether a new style of regulation might emerge that combines social, cultural and economic policy objectives? This distinction is important if regulators are to achieve multiple aims at the same time: enable competition in markets and technological innovation, deal with potentially vulnerable consumers, and also protect and promote the broader social and cultural objectives traditionally associated with public service broadcasting. In scoping the new style of regulation, Baldwin *et al.* (1998) emphasised that, in both conceptualisation and practice, regulation encompasses many forms beyond the commonly-understood polarisation of top-down command-and-control versus deregulated markets. Some forms of regulation extend the reach of regulatory agencies well beyond the state, for instance by establishing quasi-independent bodies in co-ordination with other agencies, commercial enterprises, civil society groups and the public. From a broader sociological perspective, then, regulation can be interpreted as only one among many diverse and dispersed forms of governance (Jessop 2000). This wider conception of regulation proves to be vital when we turn to the UK context.

### **Media regulation in the UK: Ofcom**

When empowered in 1997, the New Labour government reflected some broader European thinking in embracing regulation as a component of 'third way' policy. The ambition was to combine the principled and independent regulation of markets with consumer protection, wide stakeholder engagement and a social and cultural policy designed to advance the public interest (Lunt and Livingstone 2012). Although the

motivations for such an approach could be located within the media and communication sector from the 1980s, the approach was far wider. In many sectors there was a growing concern that the opposition between public ownership and neoliberal governance was failing to address important issues of either market regulation or social and cultural policy objectives (Just 2009). Collins and Muroi (1996) captured the New Labour vision as it was taken up within the media and communications sector through their suggestion that there should be neither competition without regulation (given the market failure problem for PSB) nor regulation without competition (given the distinctively innovative capacity of markets).

As part of its new regulatory regime, the UK Communications Act (2003) established a new, convergent regulator in media and communications, the Office of Communications – abbreviated Ofcom (see Lunt and Livingstone 2011). Ofcom encompassed areas of media and communications that had previously been handled by different agencies for commercial television, radio, and telecommunications. As an institution, Ofcom could establish a unified approach to regulation across the sector (notwithstanding that areas such as advertising, film and the internet were excluded), having sufficient scope and capacity to meet the challenges of an increasingly global, converged media landscape. While such a unified approach was much called for, given the confusion caused by multiple regulators in a converging media landscape (e.g. Collins and Murrone 1996), one might understandably express caution about what is thereby lost – the ability of smaller scale, targeted regulators to be ‘fine tuned’ to their specific domains, even resulting in different positions on key value debates in media and communications policy.

Notably, Ofcom’s statutory duties prioritised furthering the interests of both citizens and consumers, thereby combining competition and consumer protection with social and cultural aspects of media and communications policy in a manner that might be regarded as either ambitious or problematic (Livingstone *et al* 2007). Indeed, this particular combination of priorities generated concerns that Ofcom would tend to favour market competition at the expense of public policy and citizen-related aims, including the management of PSB (Harvey 2011; Just 2009). After observing its early days, Gibbons (2005) argued that this bias led Ofcom subtly to renegotiate its statutory duties by casting social and cultural issues in economic language, explaining them using economic metaphors. One example is Ofcom’s interpretation of the BBC’s importance as a PSB provider as a monopoly problem, sidelining the diversity of PSB content produced by the BBC (and, even, the competitive processes within the BBC). Iosifidis (2010) also contests Ofcom’s assumption that competition is or should be the norm in public service systems generally, pointing out that collaboration rather than competition characterises systems with more than one publicly funded PSB provider (e.g. Germany or pluralist examples such as the Dutch system).

As things have turned out, much of Ofcom’s work has indeed been devoted to competition policy, structural issues in the communications market, consumer protection and technical issues such as digitisation and spectrum allocation. Ofcom also had regulatory powers over the PSB operators funded by advertising (Channel 4 and SC4), as well as commercial broadcasters with public service commitments that are incumbent in their licensing agreements (ITV and Five). Ofcom was also tasked with promoting the digital agenda in the UK and promoting technological

convergence, both of which have important implications for the structure and functions of the public service system – and, indeed, for the British media system as a whole.

How, then, would the focus on competition influence the way that Ofcom conducted its periodic and statutory reviews of PSB? Bearing in mind the importance for PSB that broadcasters should be self-governing, independent of both government and from vicissitudes of the market, an agency such as Ofcom that represents both government and the market could undermine the autonomy of the BBC, changing the fundamental grounds by which PSB is regulated. Crucially, the new regulatory regime created an agency that broadened the very conception of regulation. As we argue in Lunt and Livingstone (2012), Ofcom was conceived as an institution in the public sphere – governing not only through top down command-and-control processes but also, more subtly, through a range of discursive, public-facing, evidence-led processes. As we detail in what follows, Ofcom’s activities in relation to PSB review (and more generally) were conducted both by establishing regulatory codes and enforcement and also through a range of more diversified strategies of governance, including public and stakeholder consultation, social and market research, policy analysis and forecasting. In consequence, regulatory debate was highly public, strongly deliberative and evidence-based, allowing for visible contestation from civil society as well as public and private sector players. This raises the question as to whether Ofcom’s operation as an institution in the public sphere changed the nature of the traditional struggle between market and citizen objectives in relation to PSB? We address that question next.

#### **Ofcom’s first PSB review (2004)**

In its first review of public service television (oddly radio was omitted from analysis) Ofcom provided a definition of PSB, analysed the market conditions of public service broadcasters, consulted widely, conducted audience research on attitudes towards PSB, and produced a range of recommendations (Ofcom 2005). Being ‘a creature of statute’, as its officials often remind critics, Ofcom started from the definition of purposes and characteristics of PSB in the Communications Act 2003. This contrasts with the traditional approach of defining PSB in terms of the activities of existing operators. The Act was not at all radical in its conception of PSB. It defined its purposes as informing, educating and entertaining audiences through stimulating, high quality content and services that are innovative, challenging, engaging and widely available, as supporting diverse cultural activities through a range of genres (e.g. drama, comedy, music, film and the arts), and as facilitating public understanding and debate through objective news and current affairs. But the effect of defining PSB in terms of abstract purposes rather than particular institutions immediately opened a conception of providers beyond the BBC, recognising the potential of the proliferation of digital channels that could carry recognisably public service content as well as the emergence of online content and services that might meet the purposes and characteristics of public service media. This made the idea of funding public service *content* rather than, or even instead of, public service *institutions* thinkable. That idea was hotly debated in public and policy circles during the first years of the 21<sup>st</sup> century.

In a second and potentially radical step, Ofcom (2005) established an evidence-based approach: rather than relying, as previously, on principled arguments for the needs of the public, Ofcom prioritised an approach based on market and audience research in order to gauge public views of and support for existing PSB services, institutions, their funding model (a mix of licence fee and advertising revenue) and the existing regulatory system. Although the findings produced positive public support for PSB and the BBC, in particular, on all counts, this approach also raised the possibility of radical alternatives. Suppose, for example, that the public did not value BBC content or support the licence fee. What then for PSB in Britain?

The possible loss of future audiences, and thereby of public support, also informed Ofcom's market analysis. This pointed to significant problems already discernable on the horizon for the existing mixed market model. Specifically, the advent of new online platforms threatened the advertising revenues on which the commercial PSB providers depend, while digitisation transforms the spectrum market by opening the possibility that commercial PSB providers would be inclined to reduce their public service commitments as the financial benefits of licensing were potentially reduced by increasing channels that were not committed to producing public service content. Taken together, according to Ofcom these changes would undermine competition for the BBC. Moreover, since the market-oriented model holds that competition is a central driver of value and innovation, its absence would, by repositioning the BBC as a monopoly provider of PSB, undermine the BBC itself.

Ofcom's answer was, first, to explore alternative potential sources of revenue for public service broadcasters beyond the BBC (to create competition) and, second, to argue that generic public service broadcasters should be replaced by a system in which different broadcasters play different roles alongside an increasing contribution from specialist digital channels and online services. Although the BBC would remain a central component of the PSB system, ITV would focus on its strengths in news and drama while reducing commitments in regional and children's programming. Channel 4 would focus on innovation in programming and Five on UK-originated production. More radical still, Ofcom proposed establishing a Public Service Publisher [PSP] to commission public service content for digital and online platforms. Funding was to be contestable, meaning it would be allocated on the basis of competition between agencies (excluding the BBC) to compensate for the dispersal of advertising revenues and, importantly, to allow for a greater range of suppliers such as educational institutions or independent production companies to take advantage of opportunities offered via developments in new media.

In the accompanying public debate it proved difficult for civil society to contest the vision proffered by Ofcom which implied (implicitly) that the BBC needed competitors to guard against complacency, and that audiences would eventually desert the BBC (even though there was little evidence of that), and, most generally, that the digital landscape would be transformative. In consequence, arguments were polarised between those looking for innovation in funding PSB beyond the BBC and supporters of the BBC. The concerns of those supporting the BBC being less that Ofcom's analysis was wrong but rather that in financially stringent times the PSP funds would not be additive but would come directly from BBC coffers by 'top slicing' revenue from the licence fee. If, as a result, this reduced the capacity of the BBC to continue to innovate in programming and new platforms, there would be a downward spiral,

confining the BBC to working in predominantly linear media while digital platforms and new media would afford the development of a more diverse mediascape delivering public service content (of as yet unknown and untested quality, diversity and reach) from a plurality of providers.

The effect of Ofcom's first PSB review, then, was to shift the initiative away from PSB providers, and particularly here the BBC, towards government and the industry, driven by a vision of changing public taste for more popular and diverse media content as well as challenges posed by changing markets and technological modes of delivery. To be sure, the power to define PSB always rests with government, but now government had an agency that could conduct research and market analysis, provide conceptual review, facilitate public consultation, and so guide negotiations between government and broadcasters, while also having regulatory control over commercial public service content suppliers. Meanwhile, the PSB providers had to deal with a new, powerful arm of the state that was actively reshaping the environment within which they operated. At the same time, their institutional authority was challenged. Ofcom made a number of recommendations concerning the governance, transparency and accountability of the BBC, urged the incorporation of public value tests as a vital component of BBC self-governance, and put the competitive context for commercial public service suppliers firmly on the agenda. Most generally, Ofcom promoted longer-term initiatives that favoured the dispersal of PSB into public service content that was conceived independently of particular institutions.

Although the BBC has been under attack from various quarters since its inception, and has generally proven itself more adaptable to the changing media environment than anticipated or welcomed by its critics, the regulatory consequences of a digital revolution in the making, as outlined above, certainly posed as big a challenge as the BBC has ever faced. In its 2004 response, *Building Public Value*, the BBC offered its own principled account of PSB values, while also accepting the need to make its governance more transparent and publicly accountable. Both Ofcom's work and that of the BBC in response informed the review undertaken by the Department of Culture, Media and Sport in preparation for the renewal of the BBC's Charter, the legislative framework within which the BBC operates, culminating in the 2006 White Paper, *A Public Service for All: The BBC in the Digital Age*.

Four important features of the new charter settlement between the government and the BBC were partly influenced by Ofcom's work in the PSB review. First, the BBC was required to change its governance from a board that combined executive with accountability functions into a trust that would have oversight authority for a separate BBC executive that was responsible for the company's management. Second, the BBC was required to be explicit about the public value delivered by its programming and services. Third, the BBC would be subject to market impact assessment conducted by Ofcom for new media content proposals, and actually of any innovations in programme content or delivery platform. These changes significantly impacted BBC operating principles. According to Freedman (2008), this introduced a character of managerialism that is incompatible with the values of public service, even if, as Collins (2007) argued, adjusting the BBC to a necessary modernisation of public services by using public value management to optimise the reach, impact, quality and value for money of its programmes and services. Fourth, and also significant, was the Charter's financial settlement because this mandated an increase



in the licence fee to cover the costs of digital switch over. On the one hand this put the BBC in the vanguard of digitisation, going against the grain of Ofcom's first review that forecast existing PSB providers being lesser partners in the digital age, but on the other it introduced a government-controlled element in the licence fee, opening the path to further interventions in BBC expenditure.

### **Ofcom's second PSB review (2008/9)**

Ofcom's second review of public service television took place against the background of the new charter agreement and increased financial pressures on advertising-funded PSBs and content providers (Ofcom 2008). Already the commercial PSBs were withdrawing from their commitments in the face of increasing competition, with regional and children's programming particularly under threat (see D'Arma *et al* 2010). Repositioned more clearly as an advisor to government rather than an independent expert body driving the agenda (as in the first review), Ofcom shifted ground internally as well. Because consumer and citizen interests called for protection, its previous focus on structural constraints in media markets was giving way to an increased emphasis on consumer issues. Ofcom's market analysis in the second review revealed that by 2008 the market share of the main PSB providers had fallen by 17 percent since the first review. Ofcom's prognosis that digitisation and online services would result in a plurality of suppliers for public service content looked less certain, and the renegotiation of public service obligations by the commercial PSB firms added to the sense of an emerging crisis in the delivery of public value beyond the BBC.

Interestingly, the problems experienced by commercial PSB firms in some ways strengthened the position of the BBC, making more obvious its key role in guaranteeing the delivery of public value. Moreover, far from being left behind the BBC was proving itself in the vanguard of innovation in digital and online services. Still, as Ofcom's audience analysis in the 2008 review showed, audiences were increasingly taking up digital broadcasting and online services, raising the question of how this might affect public support for PSB. Ofcom's interpretation of the first review had suggested a lag between public attitudes and changing service provisions. By 2008 surely the audience would be re-evaluating its attitudes towards PSB? Not so. Ofcom's audience research again demonstrated that the public continued to place a high value on PSB, that it supported all of the PSB purposes identified by Ofcom's first review, and that as a medium television remained the 'main source' for the delivery of these important values.

It seems, therefore, that the public did not see online services as any substitute for broadcasting as a platform for delivering public service content, even though they were embracing such services for other purposes. Had Ofcom bought too strongly into the technologically determinist position that audience values and behaviour would be transformed by the introduction of digital and online services? In practice, it appears that new media are being integrated with existing media without eroding the distinction between existing PSB providers and new digital broadcast and online services. This suggests that old favourites are 'remediated' by audiences as they find new uses for them alongside the new services they are adopting (Bolter and Grusin 1999). But Ofcom was reluctant to let go of the expectation that new media would

replace old media, and thus made much of the (indisputable) increasing use of new media by young people in particular. They argued that while general attitudes towards PSB remain positive, its position is diminishing in long-term market terms. But while shifts in audience behaviour are undeniable, the audience's continued commitment to UK-originated content, news and factual broadcasting, and programmes that reflect diverse ways of living and thinking is certainly noteworthy.

In a rather problematic piece of audience research conducted to support its case, Ofcom asked people to rank the five genres they consider most valuable for the delivery of public value. The results showed that some genres strongly associated with PSB were not ranked as highly as others – particularly, film, comedy, religious programming, arts programming and classical music. Arguably this forced ranking approach conflated viewing preferences with perceived value. Indeed, Ofcom's tendency to treat audience responses as expressions of consumer preference rather than as *public attitudes* on wider questions that impact on the rights and lives of citizens serves to obscure any empirical support for less viewed but culturally important genres. A similar problem was evident in Ofcom's interpretation of its research on contingent valuation in the second PSB review (Ofcom 2008). Here Ofcom had asked people to indicate how much they would be prepared to pay to guarantee a range of news and current affairs programmes. Finding that people are in fact prepared to pay for such services was taken by Ofcom to indicate public support for its principle of competition for quality. However these results could be better understood not as an expression of personal choice but as support for a media system that affords the expression of multiple opinions by creating the conditions necessary for diverse voices to be heard and for differences to be expressed.

In addition to the above audience research, Ofcom conducted a wide-ranging and high profile consultation on future models for the structure and funding of PSB in the UK. The responses revealed widespread support for the idea that a new funding model would be required in the future and little support for either a model that marginalised the BBC or for a BBC-only model (although 'top-slicing' a portion of the licence fee for services beyond the BBC remained controversial). Most supported the idea of a gradual evolution in PSB, with a continuing central role for the BBC and supplemented by a sustainable future for alternative PSB providers, especially Channel 4. Contrary to the radical alternatives posed by the first PSB review, therefore, Ofcom's commitment to evidence-based policy and public consultation led it in its second review towards a more gradualist approach to change, one that secured the BBC at its centre. Intriguingly, it is possible that had Ofcom conceived of a more citizen-oriented rather than consumer-led approach to its audience research, the result might have been more radical and actually less supportive of the status quo. This because when the audience is approached instrumentally, with public opinion measured as the aggregate of individual views rather than through a deliberative exploration of the collective future, a conservative outcome is surely expected.

### **Regaining the initiative**

Ofcom's two PSB reviews reflect the different stages of its own institutional development as a regulatory agency. The first review was set as a priority under the 2003 Act and Ofcom was required to complete the process within its first year. At that

stage Ofcom was just ‘cutting its teeth’ as a regulatory agency and was strongly focussed on competition and deregulatory issues in order to realise the radical potential of digitisation, online media and convergence. By the second review, Ofcom had ‘settled down’, completed its major strategic reviews and moved from a focus on structural constraints and competition issues to put greater emphasis on consumer issues (though attention to citizen issues remained uneven).

Between the two reviews, the government was actively renegotiating the terms of the BBC Charter, with changes in BBC governance, a new political consensus in support of the BBC, and continuing challenges facing commercial and advertising-funded PSB providers all influencing the context within which Ofcom’s second review took place. Undoubtedly since the start of what has been called “the public value test era of the BBC” (Brevini 2010a: 357) and more recently after the adoption of the Digital Britain White Paper (HM Government 2009), the BBC has been subject to close scrutiny – particularly when seeking to develop new services. (ibid 2010: 358). For example, the White Paper states that, “given the current nature of the market, new BBC activity has a higher risk than in the past of chilling or foreclosing market developments” (HM Government 2009, quoted in Brevini 2010a: 358).

The European context, too, remains important, with the 2009 Communication on State Aid to Public Service Broadcasters (see Brevini 2010a & 2010b) raising the barrier for PSB ventures into new and online media compared with its predecessor (see European Commission 2001). Nonetheless, the BBC remains a point of reference as a key provider of public service content in the online world, setting this company apart from other PSB providers in Europe (e.g. Italy’s Rai or Spain’s RTVE) that are developing new media services, but have been slower to embrace the diversity new opportunities offered by the internet, especially in relation to news (Brevini 2010a).

Where next? Pressures on PSB continue as regards their funding, definitions, characteristics and purposes. One challenge for those who support PSB arises from the tendency of existing providers to jealously defend their positions (market, regulatory and social/cultural) in the context of dynamic changes in the broader media environment. Another lies in the difficulty of imagining the consequences of alternative models. A third lies in the shift from national viewership to, at best, universal availability (despite declining audience reach). Governments, civil society, the industry and the public will continue to want to have a say in what public service and value in media and communications means, how it can best be delivered and what its future ought to be. Arguably an independent regulatory agency with responsibility to further the interests of both consumers and citizens, and with an approach that emphasises public consultation, deliberation and debate, remains important. Yet it is this very model that seems presently under threat in the UK as the new coalition Conservative/Liberal Democrat government rethinks, and retrenches, on its ambitions for Ofcom (Lunt and Livingstone, 2012). Also important is the legitimacy of resisting attempts to restrain the involvement of PSB in technological innovation and new media markets.

What, then, does it mean to talk about PSB taking the initiative in today’s dynamic and challenging environment? Recent regulatory debates have focussed largely on questions of governance arrangements, the shift from generic PSB providers to a greater range of specialist PSM providers, the introduction of accountability through

public value management, and increased engagement with stakeholders, including both powerful new regulatory bodies and the public. We contend that future regulatory debate must engage more thoughtfully with *purposes*. The focus of much debate and discussion has become largely instrumental today. This is inadequate to address the fundamental need for establishing, or re-establishing, the legitimacy of the approach and practice.

As an example, we can point to the vital importance of complementing the current emphasis on (nationally or wider) shared public values with a thorough recognition of cultural and political diversity as a principle. This might mean asking not so much what is represented in PSB (or other) media contents but also what is *left out*, so that currently marginalised or excluded voices can be incorporated. Regaining the initiative, in short, requires finding a way not only to reassert traditional (and still laudable) PSB values and operating principles, as important as that certainly is, but also encompassing future challenges posed by rapidly diversifying, complex and conflicted societies. Whether the existing PSB providers can meet this challenge or whether new organisations are needed is an open question, and an important one that only time will tell.

However, our study of the interplay between Ofcom, the convergent media regulator, the BBC and the British government illustrates what might be required more generally for PSB to regain the initiative in an environment characterised by complexity, dispersed governance and technological and market change. First, notwithstanding the strategic response from the BBC, the intervention by government and the shifting ground of regulatory practice, the underlying questions posed by Ofcom in its first review are unlikely to go away. The proliferation of channels, the diversification in producers of public service content, the advent of online services and the declining market share for traditional PSB channels will continue, exacerbating calls for radical change. PSB and its supporters will be continually pressed to address their proper role and functions in a changing environment. Successfully regaining the initiative depends in large part on how well they are able to respond, and how continually they are prepared to do so. We suggest that attempts to regain the initiative by reasserting traditional values and established institutional arrangements for PSB will be increasingly less convincing, even if these providers retain (for longer than Ofcom expected) a large measure of public and political support.

Second, our case study illustrates how the changing nature of governance means that PSB can no longer focus only on their relationship with government and the public, as vital as such relations obviously are and will always be. Contemporary governance arrangements include European institutions and new regulatory agencies and frameworks, and the latter may be quite powerful as in the UK. The complexities of European audiovisual policy, combining broad harmonisation policies as priorities for markets and technologies with subsidiarity in cultural policy and content issues, creates a context within which regulatory agencies become indispensable to the elaboration of media policy. Thus, as Jessop (2000) observed, contemporary governance is dispersing power away from nation states upwards to regional governance and downwards to subnational agencies. This also poses challenges insofar as traditional PSB values, purposes and characteristics are intimately bound up with the post-war reconstruction of national states in the European context.

Third, we have shown that Ofcom, as a regulatory agency, has changed the terms of the public debate over the role and future of PSB. As a principled, evidence-based regulator, it has conducted an impressive body of research, notwithstanding our criticisms of its methods and interpretations. This has been done along with consultation and analysis of markets and of the purposes and characteristics of PSB. This new body, therefore, has become a locus for expertise regarding the conditions within which PSB operates and is essential for its legitimacy. To retain their authority, and looking beyond the BBC to other countries, PSB providers must seek new ways of knowing their audiences, including a critique of the expertise produced by the regulator. It would also be advantageous for them to engage the public directly in a dialogue about the values, purposes and characteristics of PSB, and to engage fully with consultation processes initiated by governments and regulators. The key is not to resist the trends, but to be a driver of them. More subtly, they might take advantage of the indeterminacies and contradictions that emerge from the complex interconnections among stakeholders in media policy. Far from a public relations exercise, this points to a strategy of thoroughgoing engagement in public debate and processes of government. While it might be tempting to act defensively, building walls around PSB institutions in efforts to protect them from a hostile and demanding environment, our analysis suggests that continued strategic engagement is an essential element for regaining the initiative.

Evidently too, it will be important for PSB providers to continue to innovate, pushing back against expectations that PS should be confined to B – as assumed by Ofcom’s first review. PSM will still be engaged with broadcasting, but it is as important that they are engaged with innovating in digitisation and new media. It is certain, however, that PSB can expect a difficult ride here, as illustrated by the struggle over the BBC iPlayer, a platform for viewing BBC programmes online after transmission. The potential threat this posed to the market attracted a great deal of controversy and scrutiny, resulting in constraints on what can be made available and for what period. Nevertheless, the iPlayer has succeeded, and in so doing has considerably extended the public service offered to audiences. Similarly, the BBC parent website, despite being one of the most popular websites in the UK, is attacked for using public money to distort the market for news and current affairs by providing free access to news and editorial comment.

While it is essential for PSB companies to innovate and develop new services, it is vital to accommodate the obvious: this can only be done in a new environment characterised by increased regulatory pressures, and in many cases also control. The cost of operating in this new governance environment is that PSB must adjust to changing approaches to self-governance, continuing pressure to be highly accountable and transparent, and clearly demonstrate the delivery of public value. Thus, although, as our case study illustrates, PSB in the UK retains *relative* autonomy in funding arrangements and production, and remains *broadly* self-governing under altered arrangements, they are inexorably drawn into the necessary task of engaging with new forms of governance and regulatory control. Regaining the initiative has, therefore, changed the meaning of PSB from consolidating and protecting the traditional values and institutional position of PSB to engaging in complex *interdependencies* with other broadcasters, other content providers, regulators, governments and the public.

## References

- Baldwin, R., Scott, C. and Hood, C. (Eds.) (1998) *A Reader on Regulation*. Oxford: Oxford University Press.
- Barnett, S. and Seaton, J. (2010) Why the BBC matters: Memo to the new parliament about a unique British institution. *The Political Quarterly*, Vol. 81(3), pp.327-332.
- BBC (2004) *Building Public Value: Renewing the BBC for a Digital World*. Available online: <http://downloads.bbc.co.uk/aboutthebbc/policies/pdf/bpv.pdf>.
- Bolter, J. D. and Grusin, R. (1999) *Remediation: Understanding New Media*. Cambridge, Mass: MIT Press.
- Born, G. (2004) *Uncertain Vision: Birt, Dyke and the Reinvention of the BBC*. London: Secker and Warburg.
- Brevini, B. (2010a) Towards PSB 2.0? Applying the PSB ethos to online media in Europe: a comparative study of PSBs' internet policies in Spain, Italy and Britain. *European Journal of Communication*, 25(4), pp.348-365.
- Brevini, B. (2010b) Under siege by commercial interests? BBC and DR online between the national and European policy frameworks. *Interactions: Studies in Communication & Culture*, 1(2), pp.203-215.
- Bustamante, E. (2008) Public service in the digital age: Opportunities and threats in a diverse Europe. In, Fernández Alonso I., Moragas Spa, M. D. (Eds.) *Communication and Cultural Policies in Europe*. Barcelona: Generalitat de Catalunya, Departament de la Presidència.
- Collins, R. (1994) *Broadcasting and Audio-Visual Policy in the European Single Market*. London: John Libby.
- Collins, R. (2007) The BBC and public value, *Medien und Kommunikationswissenschaft*, 65(2), pp.164-184.
- Collins, R. and Murrioni C. (1996) *New Media, New Policies: Media and Communications Strategies for the Future*. Cambridge: Polity.
- D'Arma, A., Gunn, S.E. and Steemers, J. (2010) Serving children in public service media. In Lowe, G.F. (ed.) *The Public in Public Service Media*, RIPE@2009. Göteborg, Sweden: NORDICOM.
- European Commission (2001) *Communication 2001 on State Aid to PSB*, OJ C 320, pp. 5-11.
- European Commission (2009) *Communication from the Commission on the Application of State Aid Rules to Public Service Broadcasting*, adopted on the 2<sup>nd</sup> of July 2009 OJ C 257 of 27th of October, 2009.
- European Commission, (2008) Speech given by European Commissioner for Competition Policy Neelie Kroes *The way ahead for the Broadcasting Communication Broadcasting*, Strasbourg, 17<sup>th</sup> of July, 2008, SPEECH/08/396.
- European Parliament (2004) European Parliament resolution on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2) of the *Charter of Fundamental Rights*), (2003/2237(INI)) adopted on 22 April 2004
- Freedman, D. (2008) *The Politics of Media Policy*. Cambridge: Polity Press.

- Gibbons, T. (2005) Competition policy and regulatory style – issues for OFCOM.  
*Info: The Journal of Policy, Regulation and Strategy for Telecommunications*, 7(5), pp.42-51.
- Gibbons, T. (2009). The future of public service content in the United Kingdom.  
*Journal of Media Law*, 1(1), pp.1- 13.
- Hallin, D. C. Mancini, P. (2004) *Comparing Media Systems: Three Models of Media and Politics*. Cambridge: Cambridge University Press.
- Harvey, S. (in press) Ofcom: the reluctant regulator, in J. Petley and G. Williams (eds), *The Media in Contemporary Britain*. Basingstoke: Palgrave MacMillan.
- Harcourt, A. (2005) *The European Union and the Regulation of Media Markets*. Manchester: Manchester University Press.
- Held, D. (2006) *Models of Democracy* (3rd Ed.). Cambridge: Polity.
- Humphreys, P. (1996) *Mass Media and Media Policy in Western Europe*. Manchester: MUP
- Iosifidis, P. (Ed.) (2010) *Reinventing Public Service Communication: European Broadcasters and Beyond*. Basingstoke: Palgrave Macmillan.
- Jakubovitz, K. (2007) *Rude Awakening: Social and Media Change in Central and Eastern Europe*. Cresskill, NJ: Hampton Press Inc.
- Jessop, B. (2000) The state and the contradictions of the knowledge-driven economy. In Bryson, J.R., Daniels, P.W., Henry, N.D. and Pollard, J. (Eds.) *Knowledge, Space, Economy*. London: Routledge.
- Just, N. (2009) Measuring media concentration and diversity: New approaches and instruments in Europe and the U.S. *Media, Culture & Society*, 31(1), pp.97-117.
- Livingstone, S. and Lunt, P. (1994) *Talk on Television*. London: Routledge.
- Livingstone, S. and Lunt, P. (2007) Representing citizens and consumers in media and communications regulation: The Politics of Consumption/ The Consumption of Politics. *The Annals of the American Academy of Political and Social Science*, 611, pp.51- 65.
- Livingstone, S., Lunt, P. and Miller, L. (2007) Citizens and consumers: Discursive debates during and after the Communications Act 2003. *Media, Culture & Society*, 29(4), pp.613-638.
- Lowe, G.F. and Jauert, P. (Eds.) (2005) *Cultural Dilemmas in Public Service Broadcasting*, RIPE@2005. Göteborg, Sweden: NORDICOM.
- Lowe, G.F. and Hujanen, T. (Eds.) (2002) *Broadcasting and Convergence: New Articulations of the Public Service Remit*, RIPE@2002. Göteborg, Sweden: NORDICOM.
- Lunt, P. and Livingstone, S. (2012) *Media Regulation: Governance in the interests of citizens and consumers*. London: Sage.
- Majone, (1998) The rise of the regulatory state in Europe. In Baldwin et al., op cit.
- Michalis, M. (2007). *Governing European Communications: From Unification to Coordination*. Plymouth: Lexington Books.
- Ofcom (2005) *Ofcom Review of Public Service Television Broadcasting, Phase 3: Competition for Quality*. London: Ofcom. Available online: <http://stakeholders.ofcom.org.uk/binaries/consultations/psb3/psb3.pdf>
- Ofcom (2008) *The Digital Opportunity*. London: Ofcom.
- Raboy, M. (2008) Dreaming in technicolor: The future of PSB in a world beyond broadcasting. *Convergence*, 14(3), pp.361- 365.
- Richards, E. and Giles, C. (2005) The future of public service broadcasting

- and the BBC. In Peacock, A. (Ed.) *Public Service Broadcasting Without the BBC?* London: IEA.
- Seaton, J. and McNicholas, A. (2009) It was the BBC wot won it. In O'Malley, T. and Jones, J. (Eds.) *The Peacock Committee and UK Broadcasting Policy*. London: Palgrave MacMillan.
- Uricchio, W. (2009) Contextualizing the broadcast era: Nation, commerce and constraint. *Annals of the American Academy of Political and Social Science*, 625, pp.60-73.