

Is it possible to regulate broadcasting for 'Distinctiveness'?



Founding Director of the Media Policy Project Damian Tambini offers a view on the recently-published *white paper* about the future of the BBC.

In the short term the proposed system of government appointment of editorial directors is clearly a **direct challenge to BBC independence**, but is 'distinctiveness' a greater long term threat?

John Whittingdale's *White Paper* on the BBC has the somewhat cheesy subtitle: 'A Broadcaster of Distinction'. For some it will conjure comforting images of the BBC of foregone days, in a dinner jacket and a silk scarf. But the concept of 'distinctiveness' is also an **attempt to constrain and diminish the BBC**.

As I noted in my **comparison of public service broadcasters (PSBs) around the world**, the 'PSB Catch 22' is found in almost every country with a PSB. As audiences fragment amid increased competition, the PSB is tempted to provide more popular content in order to maintain audience, but when they do so they are accused of 'dumbing down' and undermining the case for PSB.

Whittingdale is attempting to use regulation to push the BBC away from popular market-oriented content. If regulation for distinctiveness does have this effect, this may in the long term diminish the BBC and undermine the case for universal funding. But there is considerable dispute about this new stress on distinctiveness and where it is leading: what does distinctiveness actually mean? Can 'distinctiveness' be translated into measurable or justiciable regulation?

Governance Reforms

Under the proposal of the White Paper, Ofcom would regulate the BBC, for example dealing with complaints, and monitoring performance, and the BBC would measure performance. Whilst the details are to be worked out, it does seem that the word 'distinctiveness' will form a, (ahem) distinctive new part of the BBC Remit, and that the BBC will be formally measured and externally monitored to ensure that the BBC delivers content that is 'distinctive' in comparison with that delivered by competitors.

Currently, Ofcom has a duty to report on the overall state of public service broadcasting. The regulator has conducted 3 detailed **reviews of PSB**. Incorporating measures of 'distinctiveness' in its monitoring of the BBC alongside the existing reviews is the next challenge, and it is worth thinking a little about how this might work in practice. Reviews involve a combination of data provided by the broadcasters, externally commissioned consumer research and wider consultation. If Whittingdale's wheeze is to work, both Ofcom and the BBC will have to develop some measures and detailed definitions of 'distinctiveness'. Here are a few thoughts on this process:

3 Dimensions of Distinctiveness

First, the concept will have to be defined and operationalised. Like 'quality' and 'impartiality' and many other concepts in the Communications Act, it is slippery and consists in various components. What is easy to measure is likely to be more influential in the application of this concept.

Distinctiveness as hierarchy. Vertical distinctions based on an assessment of quality. These are difficult to measure but tend to get collapsed into market mimicking measures such as 'willingness

to pay'. This is the easiest direction to take, probably will be the most measurable, and hence implementable.

Horizontal distinctiveness based on another criterion of difference or an unstated criterion This would be most easily measured by asking users/viewers to identify BBC content, and categorising content according to the degree to which it was recognised as distinctive. This would be problematic in all sorts of ways as there may be other reasons (such as the fact they watch it in large numbers) that could impact recognition.

Degrees of Distinctiveness. How 'distinctive' content is is also a matter of degree. The White Paper envisages a world in which there would be clear blue water between the BBC and other services. Does this matter is one problem, and how to measure it is another.

It is early days, and Ofcom have a formidable ability to find ways of measuring the unmeasurable. But my hunch is that 'distinctiveness' is not going to offer a criterion of public service that is an improvement, in terms of measurability or justiciability, on the previous **public purposes of the BBC**. As the White Paper definition (mix, quality, amount, level and range) makes clear, it will tend to be collapsed into market measures. It is also likely to be based on a hierarchical notion, and it will not replace 'Public Value' because it is not based on a theory of the social value of broadcasting. Nor does it answer the key problem for the sector: creating regulatory certainty and not chilling investment. This is done by Ofcom's existing market impact assessment and public value test. Yes they are imperfect, but distinctiveness is not an improvement.

Government ideology continues to drive policy on the BBC. The last Labour government introduced the notion of 'Public Value' to the BBC Charter and regulatory framework in a classic new labour fudge between citizenship and the market. The Conservatives, in an almost stereotypical expression of a government accused of elitism, have introduced '**Distinction**'.

Ultimately, however it is likely that 'distinctiveness' will be watered down and ultimately absorbed into the wider array of Ofcom measures. **Patrick Barwise** argued on this blog that the entire notion of distinctiveness should be jettisoned, because it is basically market failure in disguise: the notion that the BBC should provide only a narrow range of by definition unpopular programmes. If this is what Whittingdale wants to do, such arguments will fall on deaf ears. But given the difficulty of actually measuring and implementing 'distinctiveness' as a regulatory concept, by Ofcom or anyone else, it may not be too dangerous. It is unlikely to do much damage other than waste a lot of regulatory time and effort. Perhaps the BBC is lighting a cigar and pouring a glass of champagne to go with that dinner jacket.

This blog gives the views of the author and does not represent the position of the LSE Media Policy Project blog, nor of the London School of Economics and Political Science.

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