

IEA Current Controversies No.71

NEW VISION

Liberating the BBC from the
licence fee

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January 2020




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Institute of
Economic Affairs

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About the author

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Summary

- There is a long history of governments and incumbent vested interests restricting competition in broadcasting for their own ends.
- Those interests have subtly changed the definition of public service broadcasting in a way that seems to serve producer interests rather than being helpful in informing good public policy debate.
- The current definition of public service broadcasting used by Ofcom is not coherent.
- The nature of the broadcast market has changed to such a degree that public service broadcasting (insofar as it can be defined) should no longer be delivered largely by one institution. Indeed, we should go further: there is no need for specific policy in relation to public service broadcasting.
- Niche providers are often better than the BBC at ensuring the broadcasting of good quality content to meet minority tastes. The BBC is clearly most attractive to higher-income white audiences, despite the impression it tries to convey in its marketing.
- The fact that the market for broadcasting is now an international industry means that much artistic, educational and cultural programming, which might not have been economic in the past, may now be economic and not need subsidy.
- Changes in technology mean that the current approach to financing, owning and regulating the BBC is no longer tenable.
- The BBC should be financed by subscription and owned by its subscribers. It could then determine different subscription models for different markets (including online and overseas). This model has a number of advantages over alternative models of reform:

- The model is simple. All that is required is to allow people to receive TV signals for other services if they have not paid the subscription necessary to receive BBC services. As such, the reform would be permissive – it would be seen as allowing consumers to receive for free, or through existing subscription services not funded by the licence, channels other than the BBC.
- A belief in a market economy should not mean that we are opposed to the evolution of a wide variety of different governance models within the market. It is likely that the model of a subscriber-owned mutual would be preferred to fully commercial models by the majority of nominal owners of the BBC (current taxpayers or licence fee payers) and future owners (subscribers).
- There is nothing to stop the subscriber-owned mutuals from having fully commercial or fully charitable arms for different purposes. This is a common approach for mutual and co-operatives and would also allow the exploitation of the overseas market and a wide array of joint ventures.
- The BBC should lose its legal privileges and be treated in the same way as all other news and media organisations for competition and other purposes.
- The government may wish to impose some obligations on the subscriber-owned mutual in relation to the provision of radio, international broadcasting and also, perhaps, the broadcasting of Parliament. However, this would be best done under a freely-negotiated contract with the new mutual or with an alternative provider.

Introduction

Broadcasting policy has been dominated by both government and producer interests almost since the invention of radio. This has been reflected in policy decisions taken by government and by the lack of change in relation to public service broadcasting policy even as technology has changed radically. A proper understanding of the nature of public service broadcasting is necessary as the starting point for discussion about the appropriate policy framework. Following such an analysis it is very difficult to make a case for a state-owned broadcaster funded by a tax on television users in general.

Four major policy changes are recommended in this paper. The first is that it should not be necessary to pay a BBC subscription to receive television channels that are not financed by the licence fee – basic concepts of fairness and justice justify this conclusion, quite apart from economic considerations. The second is that the BBC should become a subscriber-owned mutual organisation. Echoing the National Trust, it could be called the 'National Broadcasting Trust', though its formal structure would be more like a mutual building society or insurance company than a charity. Whatever its formal name, it would probably wish to keep the BBC brand for marketing reasons. Thirdly, the BBC should lose its legal privileges. Finally, it is argued that 'public service broadcasting' should no longer be part of the public policy lexicon – though broadcasting might be a means by which other policy objectives are achieved (for example in the field of education or the arts).

The slippery concept of public service broadcasting

Those who wish to protect the current funding model for public service broadcasting have subtly changed the meaning of the term as earlier meanings have become irrelevant. It could reasonably be asked whether there is an element of ex-post rationalisation designed to protect vested interests.

The television licence fee evolved out of a system whereby the Post Office, working with radio manufacturers, charged owners of radio sets to receive programmes. It was designed to create a hypothecated charge to overcome the 'public good' aspects of broadcasting.

Public goods are goods which are not excludable (so it is difficult to stop people who do not pay for them benefiting from them) and which are non-rivalrous (that is the marginal cost of serving an additional user is zero). Given the available technology until the 1980s, a plausible case could be made that broadcasting had these qualities. Given that public goods may be under-provided in a market, the solution was to charge a fee to everybody who had a television, regardless of whether they watched the BBC,¹ and use the revenue to fund the BBC.

In addition, it was also argued that broadcasting had the attributes of a natural monopoly. This is discussed, for example, even as late as 1999 in Department for Culture, Media and Sport (1999: annex VIII), drawing on other, more academic, sources. Monopoly could arise in theory because of economies of scale or spectrum scarcity. However, in practice, it would

¹ If televisions were owned only for watching pre-recorded videos and no signals were received, the licence fee did not have to be paid.

seem that the monopoly was far from natural. In so far as there ever was a monopoly in broadcasting, it arose as a result of political decisions that limited spectrum use for broadcasting in both the UK and the US. Additionally, in the UK, an institutional environment existed which led to the creation, initially, of a single broadcaster with limited state-controlled entry in later decades. A range of academic work, especially pioneered by Coase, shows how there could have been a market for spectrum, competition and freedom of entry but that this was stifled by the government with the explicit objective of centralising control of broadcasting. The same vested interests still have a strong hold over policy today.

New justifications for public service broadcasting

It is clear that the historical justifications for public policy interventions to promote public service broadcasting are no longer relevant even if they once were. If spectrum scarcity, lack of excludability, and so on were ever significant and inherent features of the broadcast market, they are not so today. But the current funding model and the special status of the BBC remains. There has been a change in how policymakers define public service broadcasting but, even if the new definitions are valid, they do not lead us to the conclusion that the current funding model for broadcasting is the correct one. Different definitions of public service broadcasting lead to different conclusions about how to fund public service broadcasting.

The current definition of public service broadcasting (PSB) given in Ofcom (2017), paraphrased slightly to ensure grammatical sense in the context in which it is quoted below, is as follows:

- PSB should inform our understanding of the world through news, information and analysis of current events and ideas.
- PSB stimulates knowledge and learning to stimulate our interest in, and knowledge of, arts, science, history and other topics, through content that is accessible and can encourage informal learning.
- PSB reflects UK cultural identity and reflects and strengthens cultural identity through original programming at UK, national and regional level, on occasion bringing audiences together for shared experiences.

- PSB should represent diversity and alternative viewpoints, to make us aware of different cultures and alternative viewpoints, through programmes that reflect the lives of other people and other communities, both within the UK and elsewhere.

And the characteristics of public service broadcasting suggested by Ofcom are that it is:

- High quality
- Well-funded and well-produced
- Original new UK content rather than repeats or acquisitions
- Innovative breaking new ideas or re-inventing exciting approaches, rather than copying old ones
- Challenging, thus making viewers think
- Widely available if content is publicly funded: a large majority of citizens need to be given a chance to watch it
- Distinctive

These objectives and characteristics are, in fact, already outdated and do not make obvious sense. They appear contrived. For example, public service broadcasting is supposed to inform our understanding of the world and stimulate learning. Why, then, does it have to be original UK content? Can the objective not be achieved through overseas programmes or repeats? Arguably, Kenneth Clarke's *Civilisation*, still available from BBC iPlayer, informs our understanding of the world and fulfils any reasonable definition of public service broadcasting. If there are any legitimate policy objectives in relation to encouraging new UK production surely these are matters for industrial policy and not broadcasting policy. Indeed, it seems contradictory that public service broadcasting is supposed to open us up to new cultures and yet be delivered in a framework that is explicitly protectionist with some nationalistic overtones.

Furthermore, why does public service broadcasting have to be well-funded as well as well-produced? Is it not enough for it to be well-produced? Why should it be available to a large majority of citizens when different groups will have different tastes? Is Welsh language programming, for example, not part of public service broadcasting?

Current broadcasting policy is anachronistic

Changes in technology mean that policy in relation to public service broadcasting *as such* is no longer necessary. In public policy terms, there is excessive focus on the means to an end (broadcasting policy) and particular institutional approaches (the maintenance of specific television channels in their current form) rather than the ends themselves (the promotion of education, culture, the arts and so on). Arguably, there should be no distinct legitimate government policy objective labelled 'public service broadcasting' even if broadcast content is an appropriate means of achieving desired ends in areas such as education, arts, culture, community cohesion etc.

There is a separate, but linked, question of whether public service broadcasting, as currently defined and promoted through the BBC, and to a more limited extent through other broadcasters, is effective in reaching its audience and achieving its objectives. There are no realistic comparators with the service provided by the BBC because other providers of content have to raise funds through advertising, donation or subscription and then compete with free-to-air content that is paid for through the TV licence.

However, Vir et al. (2018) suggest that the BBC, as the main public service broadcaster, struggles to deliver content which is appreciated by wide groups of the population. They concluded:

- The BBC was widely considered to have a white, middle class, south-east bias.
- The representation of older women was considered restricted to just a few roles across a limited range of genres.

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- People from lower socio-economic backgrounds felt they are often portrayed in narrow and negative ways.
 - Many minority groups feel misunderstood, stigmatised or simply overlooked by society in general, and notice this reflected on TV.

Whilst the proposals in this paper would still lead there to be a BBC with significant size and presence, these issues, which are echoed in a wide range of surveys, raise the question of whether it is possible or appropriate for a single broadcaster to attempt to serve the whole public and be financed by a tax levied on all television sets. It is not only in markets for consumer products where one expects to see a wide variety of institutions operating in a competitive environment – the market for culture, the arts and education is also diverse. Surely, broadcasting should be opened up to greater competition and institutional variety too.

The model of funding the BBC would appear anachronistic. Developments in technology mean that the television set (on which the current tax is levied to support public service broadcasting) may cease to exist as a distinct kind of device, as it will come to be combined with other kinds of devices and platforms. More people will simply not have a conventional television set and will watch broadcast content on a mobile phone or laptop. There is already an anomaly in that a licence is needed to watch any content on a television but is only needed for a mobile device or computer if live television or BBC content is watched. It is therefore possible to watch other freeview content on a tablet or laptop with the device connected to a television screen as long as the television is not receiving television signals and the content is not live. The behaviour which reveals this anomaly may well become the norm.

It was recognised in a House of Lords report published in 2009 that the context for public service broadcasting policy has changed and that, implicitly, policy should also move on from a consideration of institutions to a policy focused on broadcast content. The House of Lords (2009) Communications Committee report stated:

[T]he interpretation of public service broadcasting as content that the market does not sufficiently provide is gaining increasing support. It implies a focus on defining the core elements of public service provision that should, as a matter of public policy, continue to be supported. Such elements might include, for example, national and regional news, current affairs programmes, the arts, children's

programming, programmes dealing with religion and other beliefs and UK content.

The provision of content that would be under-provided in a market is a legitimate, if contested, aim of government policy (see above). The acceptance of this aim would take us very close to the justification used for intervention in the market for art and culture more generally. As discussed in Frey (2013: Chapter 1), intervention in the markets for art and culture can be justified from the perspective of the externalities that might arise. Arguably, this is now the main justification, if there is any at all, for the subsidisation of broadcast content. A wide variety of arts institutions are able to access public funding on the same basis. The nature of broadcasting and production – limited economies of scale in many areas; low barriers to entry; the importance, in many contexts, of local knowledge or knowledge of a niche subject area; and high levels of innovation would suggest that the model of focusing funding on a single institution is both an inappropriate and an inefficient way to achieve legitimate policy objectives in broadcasting.

In the past it has been suggested that changing technology should lead broadcasting policy to be seen in the same way as arts policy with an ‘Arts Council for the Air’ funding public service broadcasting from a range of providers. This was a key conclusion of Peacock (1986). For example, an independent broadcaster could be subsidised to provide news in Welsh; Classic FM could be subsidised to broadcast concerts featuring young composers with less audience appeal; or the BBC could be subsidised to produce programmes on history (whilst the general model for funding the BBC was based on subscriptions of various kinds). There are discussions of this approach in Booth (2016). However, despite its merits as compared with existing models of financing public service broadcasting, this proposed approach has itself now become outmoded. Broadcasting has become too diffuse and diverse as an industry to treat in this way.

Just as we do not have a ‘national books policy’ or ‘national intellectual magazines policy’ (still less a national ‘educational websites policy’) we do not need a national broadcasting policy as such. If there are other areas of public policy, such as education, for which broadcast or streamed content are legitimate means of achieving the desired objective, the production of appropriate broadcast or streamed content can be facilitated to meet the desired education policy ends. This approach is already followed, for example, through collaborations between the BBC and the Open University. Just as various organisations sponsor the publication of

books, other information sources, exhibitions, the production of videos, and so on, for educational purposes, they could also sponsor the development of content for broadcasting or streaming. The Arts Council could give grants to producers and broadcasters to promote its objectives. The distinction between a performance in a theatre (subsidised by the Arts Council) and a niche television programme broadcast by the BBC but designed to achieve the same educational or cultural objectives as a theatre performance, is an artificial one. Support for programming (whether provided to producers or broadcasters) would not have to cover the total cost of production and broadcasting, of course. As with special exhibitions or theatre performances, revenue can be obtained from a number of sources, not least from advertising and subscription income.

The likelihood is that, in the modern world, public policy objectives (admittedly themselves contested) in the field of education or the arts can be served through broadcast and streamed content. If this is the case, those ends would best be achieved in a competitive environment with a wide range of producers and broadcasters, some large, some small, some niche and some of them broadcasting internationally to groups of people with similar interests in different countries. But this should not be thought of as broadcasting policy as such, but as a means to pursue policy objectives in the areas of the arts and education.

The future funding, ownership and structure of the BBC

The BBC is currently privileged in the proper sense of the word in that it is exempt from the usual competition laws that apply in the UK and from state-aid rules that apply in the EU. It also has a privileged source of funding. The BBC's income stream is not dependent on its ability to satisfy viewers, but on the ability of television services as a whole to satisfy viewers as anybody who receives television signals has to contribute to the BBC's income stream.

Funding the BBC

As has been discussed above, although there are some arguments that might favour some subsidisation of broadcast content, it is difficult to think of a coherent argument for requiring those who wish to watch one television channel to pay for content on a different channel.² If there ever were a coherent argument, changes in technology have now nullified it.

A more appropriate approach to funding broadcasting can be achieved with a relatively straightforward transition. As households' television licences expire, they should be allowed to renew their licence to watch any television or digital service for which the BBC continued to require payment, but all other channels and programming (whether subscription or freeview) could be watched without payment to the BBC. The BBC would become a subscription service, though it could seek other forms of income if it wished. It would also be free to charge differential subscriptions to different groups

2 It is highly plausible, given the range of television channels, that somebody might watch a highly educational diet of programming on a range of channels that do not include the BBC and yet have to pay for the BBC.

of people (such as those who only watched on mobile devices, those who had multiple devices, those watching from overseas, hotels, care homes and pubs, those over aged 75, those under age 25, and so on). Different packages could be available for different service levels.³ One-off fees could be paid for temporary or partial access.

It could be argued that, initially, a regulatory framework would be necessary to limit how the BBC's charging structure evolves given its near monopoly of certain broadcast services, although its proposed status as a subscriber-owned mutual may make this unnecessary (see below).⁴

There may be some activities, such as particular radio stations, the Parliament Channel and World Service, that the government wishes to subsidise or fund entirely regardless of the funding and ownership structure of the BBC on the grounds that these fulfil particular policy objectives or because of the difficulty of excludability when it comes to charging. The government could contract with the BBC to provide those services whilst being free to find alternative platforms if it wished.

Ownership of the BBC – creating a subscriber-owned mutual

Peacock in Peacock et al. (2004), also citing his earlier work, suggests an ownership model for the BBC like the National Trust.⁵ His prime concern is to ensure that broadcasting reflects consumer sovereignty and preferences. This is almost impossible to achieve in a nationalised ownership model. At the same time, as Peacock notes, there is probably not a consumer desire for the BBC to be transformed into a fully commercialised company. This situation has not changed. In a 2017 opinion poll only 25 per cent of the population expressed the view that the BBC should be 'privatised and run by private companies'. In more recent polls, there has been strong opposition to licence-fee funding. For example, in a poll published in December 2019, 75 per cent of people opposed licence-fee funding and 56 per cent of people believed that the BBC should

3 For example, an arts channel could be introduced with a separate subscription.

4 There may be concern that a monopoly in some service areas could lead to consumers being exploited. One advantage of a subscriber-owned mutual (see below) is that it helps resolve conflicts of interest between subscribers and owners (as they are the same group of people).

5 Of course, the National Trust has members but is a charity with assets that have to be used for stated charitable purposes. What is proposed here is somewhat different. Though there may be a charitable part of the organisation, the BBC would become a subscriber-owned mutual.

secure its own funding.⁶ Of course, decisions should not be taken simply by reference to opinion polls and the option of a mutual model proposed here was not suggested as an alternative in either of those polls. However, there does not seem to be strong public support for the status quo or for privatisation along commercial lines.

Following the Peacock approach, a feasible model for BBC ownership would involve turning the licence fee into a subscription. Within this model, individual and commercial subscribers to the BBC could become equal owners in a mutual structure. Instead of the representatives of the licence fee payer (notionally the government) appointing the trustees of the BBC, they would be elected by the subscribers in the same way as the trustees of a charity such as the National Trust or the board of a mutual building society are elected. The National Trust has 5,000,000 members and so the scale of the organisation would be similar to that of the BBC under a mutual model.⁷ The board would determine policy in relation to issues such as advertising and all aspects of strategy.

The BBC mutual could have a charitable arm and also commercial arms, the income from which would be used to reduce member subscriptions. At any time, members and/or their trustee representatives could choose to float off commercial arms or, indeed, purchase new commercial entities or engage in joint ventures. A number of mutual insurance companies used to operate in this way.⁸ Indeed, the Co-operative still does, as does the National Trust to a smaller extent.⁹

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- 6 See: Three-quarters want BBC licence fee abolished, poll finds. *Daily Telegraph*, 28 December 2019 (<https://www.telegraph.co.uk/news/2019/12/28/three-quarters-want-bbc-licence-fee-abolished-poll-finds>).
- 7 The BBC would be larger with 25,000,000 subscribers if all existing licence holders subscribed. Even if 80 per cent subscribed it would, of course, be many times the size of the National Trust, but it would be the same order of magnitude. As a proportion of the country's population, the number of BBC members would not be very different from the number of TUC members at its peak. The Co-op also has about 4,000,000 members.
- 8 For example, the mutual life assurer, Norwich Union, used to wholly own all the shares in the shareholder-owned general insurance arm.
- 9 There should be some measures taken to prevent the subscriber-owners selling off the assets of the organisation and profiting given that they have not paid for the assets (the subscription would be a charge for services and not a charge for the transfer of assets). One approach would be to require that, if the BBC changed its ownership structure by selling shares or selling off sections, an amount of money equal to the value of the assets at the time of mutualisation, accumulated at a reasonable risk-adjusted return, should be transferred to the Exchequer.

This approach is perfectly compatible with the structures of a free economy. There is a rich history of mutual organisations and co-operatives developing from the nineteenth century to meet different kinds of needs and preferences. Despite increases in regulatory oversight in the financial sector undermining the comparative advantage of mutuals, there are still more than 100 mutual insurers with 30 million members. It may well be a model that is preferred by potential BBC subscribers, rather than a fully commercial and shareholder-owned structure, in order to, for example, maintain the character of the BBC or to ensure that ownership is widely dispersed.

There are disadvantages of a mutual structure. The first is that the costs of corporate governance are often higher because of the divergent aims of different owners and the widely dispersed nature of ownership. Secondly, raising capital is more difficult for a mutual because control cannot be offered to those who are subscribing capital. The BBC will be limited in its ability to expand if it has a mutual structure. However, BBC subscribers may perceive value from being member-owners of such an organisation in and of itself: this may compensate for the reduced technical efficiency of such a model. Secondly, if a degree of conservatism is actually regarded as intrinsic to the success of the BBC (for example, perhaps paradoxically, for encouraging different forms of artistic innovation from those that would be encouraged in a shareholder-owned firm), ownership models other than a fully commercial, shareholder-owned model might well be most appropriate. According to Ricketts (1999) and Ricketts (2000) this is one of the reasons why most universities are not profit-making entities, despite being private institutions (at least in the UK). The BBC would begin with considerable monopoly power. Mutual structures can help align the interests of owners and consumers in such circumstances.

Problems that might arise from the mutual model can be mitigated by the BBC establishing commercial operations, which would be managed by a board accountable to the BBC's trustees, but would have largely profit-making objectives. Joint ventures with commercial organisations would also be a way of ensuring that entrepreneurialism, commercial innovation and efficient delivery are key features of those parts of the BBC's operations for which such approaches are thought best.

Legal privileges

Currently, the BBC comes under very little scrutiny in relation to competition issues. It is able to provide services for free, financed by the licence fee,

which may undermine the business models for similar content provided by other organisations.¹⁰ For example, BBC Bitesize, a free service which provides education materials, competes directly with textbooks that cannot, of course, be provided for free. In addition, the media plurality rules hardly affect the BBC at all. It is not possible for large newspaper groups to own more than 20 per cent of third channel providers (or vice versa), but the BBC is able to host a news website which is used by more people than any newspaper group website, in addition to its television and radio channels which are used as a news source by more people than all newspaper sources put together (Ofcom 2019: 21). Furthermore, EU state aid rules do not apply to public service broadcasting.

The media regulator, Ofcom, has introduced rules that require prominence to be given to so-called public service channels on freeview packages. Thus, not only are viewers required to pay for the BBC even if they do not watch it, the providers of the services for which they do choose to pay have to give prominence to BBC channels.

Of course, the most significant legal privilege is the availability of a funding source based not on whether people choose to use the services of the BBC but on whether they have a television. This, in turn, directly distorts competition with any alternative provider of similar services. This would not be allowed by the Competition and Markets Authority in other similar contexts.

Views on the appropriate degree of intervention on the grounds of promoting competition vary between economists who believe broadly in free markets. However, there is no clear reason for applying competition policy principles differently in relation to the BBC.

Indeed, the reforms in this paper should allow a reconsideration of media competition rules more generally. The broadcast media landscape will look different given the proposals in this paper. Most importantly, the BBC would become a mutual with very dispersed ownership and with a substantial part of the news-media market. The BBC would also be detached from the state but could not be taken over by a fully commercial provider or by an individual. These proposals would embed structural diversity into the market and should, perhaps, make us less concerned both with BBC dominance and with the dominance of other players as

10 Though Ofcom can investigate such behaviour.

there would be a range of models competing alongside each other with different ownership structures but with none having a legally privileged source of funds.

Conclusion

It is difficult to think of a strong economic reason for the current model of funding public service broadcasting or, indeed, for active public policy in relation to public service broadcasting at all. Broadcasting might be a means to other policy ends (for example, in the field of education), but it is not necessary for the government to concern itself with public service broadcasting as such.

Reconsideration of the model for funding public service broadcasting calls into question the whole approach towards ownership and governance of the BBC.

There are good reasons to end the situation whereby all owners of television sets have to purchase a TV licence and for reconsidering the model of state ownership of the BBC. A belief in a free economy does not *a priori* favour one form of non-government ownership over another. Whilst a customer-owned mutual may be at a disadvantage competing in a purely commercial environment, there are ways to circumvent those problems. It is likely that the creation of a customer-owned mutual would be valued by its subscribers and by current licence holders.

If the BBC were turned into a subscriber-owned mutual, which could be known as the 'National Broadcasting Trust' (though it would probably wish to keep the name 'BBC' for marketing purposes), the requirement to subscribe to the BBC in order to receive other television channels would cease. There would therefore be competition on a level playing field between different broadcasters with different ownership models, cultures and services – many fulfilling niche demands and others operating internationally. The takeover of the BBC by political interests (whether by the state directly or by corporate interests seeking to influence the political system) would be impossible given the ownership

structure proposed: media diversity and plurality would be promoted in a market context.

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