

ACTO

local public service television directory

**LOCAL TV SNAPSHOT: after the
Digital Dividend Review, Scottish
Parliament and Welsh Assembly
elections
&
SPECTRUM MATTERS a contribution to
Westminster eForum *Keynote
Seminar: Digital Dividend Review*
& NB: recent Community Radio and
Television Adjournment Debate in
the House of Commons on:**

<http://www.parliament.the-stationery-office.co.uk/pa/cm200607/cmhansrd/cm070424/halltext/70424h0001.htm>

ACTO is an advisory committee of local television organisations working alongside the Institute of Local Television. **ACTO**'s initial objective is to share information supporting the introduction of local digital terrestrial television as an independent form of local public service broadcasting.

ACTO was established in 2003 by local television members of the Community Media Association to focus on the introduction of local digital terrestrial television services - or 'local DTT'.

Through the Institute of Local Television **ACTO** is represented on **Open Channels for Europe!** the organisation representing European local and open channels in exchanging information on European practice and in negotiation with the European parliament on small-scale TV provision.

Personal and institutional affiliation to **ACTO** is by a small annual subscription (see page 20) entitling subscribers to copies of Institute of Local Television research and reports as well as to **ACTO** directories. Subscribers also receive early announcement of local TV conferences, forums, workshops and are offered networking and support with submissions to regulators and government as well as encouragement with local-tv related activities.

ACTO - local public service television directory - encourages local lines of research and documentation and promotes publications which support a wide public engagement with small-scale local TV.

This is the thirtieth edition of the **ACTO - local public service television directory**.

ACTO back issues can be downloaded from www.maccess.org.uk/members/ilt.html

WEBSITES

For information:

on local and community TV in Europe: www.obs.int/db/persky/eu.html

on community TV channels worldwide: www.openchannel.se/

UK's Community Media Association: www.commedia.org.uk/

UK examples of local and community TV programmes:

www.showcase.commedia.org.uk/

website of NvTv Belfast's Local TV Channel: www.nvttv.co.uk

Public Voice is the leading voluntary sector coalition campaigning for citizens' interests in communications policy and regulation:

www.politics.co.uk/campaignsite/public-voice-53436683.htm

Ofcom - the UK's independent regulator and competition authority - site includes sections on codes, guidelines and consultations: www.ofcom.org.uk/

..... provides an extensive catalogue of consultations and reports - for background to local TV look out the public service broadcasting consultations Phase 1-3 and you can join the Ofcom email list for updates on future consultations and publications

inter-ACT!#5 media activism in South Korea. You can subscribe to this regular

English language newsletter at <http://lists.riseup.net/www/info/inter-act>

Institute of Local Television www.localtvonline.com/ shared with The Broadcasting Trust, website lists publications, provides background papers, illustrates local TV DVDs, 2.4 Ghz TV studies

Ofcom's spectrum dividend review consultation

http://www.ofcom.org.uk/media/news/2005/11/nr_20051117

LOCAL TV SNAPSHOT: after the Digital Dividend Review, Scottish Parliament and Welsh Assembly elections

Introduction

A consortium of public interest agencies working together as 'Public Voice' (1) proposed that Ofcom/DCMS:-

- Makes a sufficient amount of spectrum available for public, citizen, social and community uses.
- Facilitates universality/access to services for all.
- Ensures that digital services are available for all at a national, regional and local level.

Lord Mcintosh, Minister for Media and Heritage at DCMS, in his Address (2) to the Scottish Local TV Forum in March 2005 affirmed that:-

The Government are committed to supporting local television and we very much hope to see an expansion of services in the future. We envisage that local television will play a valuable role in keeping communities informed and in particular, help keep in touch those most socially isolated members of the community who may not have access, or are uneasy about using new technology. Local television will also bring economic benefits to areas in terms of employment and training....

and yet ...

Local public service television

.... remains the missing element in the UK's public service broadcasting.

Since 1974 regular surveys for the commercial broadcasting regulators have found viewers wanting a more 'local' TV news and 'identity enhancing programming' about the people they know and the area where they live.

That year the Director General of the IBA responded to the technical possibilities that were necessary to satisfy viewer interest by establishing a working party on ITV sub-areas:-

to consider the case for and against a contractor providing separate local interest programmes after 1979 for separate parts of its area; to consider the programming, technical and financial effects of *the introduction of a second ITV service*; and to suggest which, if any, of the existing areas might be so divided, and in what order of preference (para 1.2) (IBA submission to Crawford Committee 1974) (my highlight) (3)

Since the 1980s evidence from local areas has continued to be gathered. For example, an independent survey for Edinburgh found that in 1989:-

93% of respondents were interested in watching a locally made programme about one of their interests

92% of respondents were interested in watching Local News on a local television channel ...

80% of respondents were interested in watching Local Current Affairs on a local television channel

81% of respondents were interested in watching Local Special Interest Programmes on a local television channel

75% of respondents were interested in watching local entertainers and Local Neighbourhood and City Festivals on a local television channel

60% of respondents were interested in watching Local Amateur and Professional Sporting Events on a local television channel (Kitchenman, 1993)

And fifteen years later, a study (Francois, 2004) for Merthyr TV found a similar level of support for local programming including news and other identity enhancing programming (figures in %):

	Very Interested	Fairly Interested	Not very Interested	Not at all interested
Local news	50	34	11	5
Local documentaries	37	44	14	6
Local music	24	28	19	30
Local entertainers	23	49	16	13
Local art groups	20	32	35	13
Local environment projects	29	47	15	9
Local sport	33	23	15	28

In addition, the Edinburgh and Merthyr studies identified that over 50% of respondents would be interested in participating in local and community programming.

Consumer research conducted for the Ofcom PSB reviews (MORI, 2005) also addressed the scale and variety of viewer interests from television across a broader scale of rural and urban area. This study also found that Local TV remains - **wanted as TV**.

For its Digital Dividend Review Consultation (Ofcom 2006a) found:-

5.26 Respondents were asked to rate the importance of a series of statements that assessed the importance for UK society of new digital services. Statements that had the highest level of agreement tended to be focused on local issues.

5.27 The issues that were **most often rated as most important** were:

- Computers in public buildings are able to connect to the internet at low cost.
- **Local news and information available on TV at home**
- Local news and information about your area available from at least one media source
- **Programmes about community, local people and events are available on TV at home** (my highlights)

Local TV in Europe

Since the 1980's many European countries have supported the introduction of Local TV on cable and terrestrial platforms - or if not supported not stood in the way of their introduction, growth and prosperity:-

- **Positive engagement of local administration in regulation and support**

In the Netherlands the better regulated cable networks have resulted in 300 community and 2-300 commercial TV channels – with cable delivery adopted by 80-90% homes

The German Lande receive a percentage of the licence fee to establish 'open channel' media – Offener Kanalen are to be found in 80+ areas

- **State support for Local DTT**

France's broadcasting ministry - the CSA - are considering *introducing 1000 local digital TV channels via add/drop on GR1 - the French PSB mux*

- **State failure to regulate in transfer of role to regions administrations**

In Spain the transfer of regulatory responsibility for local and regional broadcasting to the regions 'encouraged' 1000 local TV stations to become established – *because the regions did not act to introduce regulations*. These services are to become with Spain's digital switchover

- **No regulation**

In Serbia after the national TV service collapsed 300 local TV stations were set up by journalists, editors and programme makers.

Yet in the UK, state's large-scale commercially focused presumption for broadcasting has *excluded Local TV*. Over five decades the UK regulation has almost exclusively benefitted the monopoly of existing large scale supply - regional, national and commercial broadcasters as well as cable companies. A 'policy of exclusion' for Local TV has persisted regardless of the volume and strength of demand for a smaller scale of television service and for an engagement in these services by viewers as citizens to serve the local public.

Regulation and legislation are not always in step

In the broadcast regulator studies there has often been a confusion between the 'scale of available supply' offered by regional TV and the viewers' more 'local requirements' - that is between *regional capacity* and *local identification*. (Rushton, 1993)

At times when Government policy has appeared to be favourable towards Local TV, the regulators have interpreted the legislation to actively encourage operators to renege on their commitments.

The 1984 Cable and Broadcasting Act introduced requirements for cable companies, then applying for city/borough-scale franchises, that they source programming from independent suppliers as well as provide access for citizen participation and for programmes provided by community and voluntary associations:

(d) to include programmes of an educational nature, programmes calculated **to appeal specially to the taste and outlook of persons living in the area and programmes in which such persons are given an opportunity to participate;**

(e) to include programmes **provided otherwise than by himself or by associates of his;**

(f) to include programmes **provided by local voluntary associations and to assist such organisations in the preparation and production of programmes** (Part 1 Section 7 1984 Cable and Broadcasting Act, HMSO)

Adrian Friedli (Friedli, 1993) summarised the cable company commitments at a time when a separation of the functions of *channel* and *content* were being strongly endorsed by the Macdonald Report of 1988.

Also in 1988 the White Paper *Broadcasting in the '90s* outlined MVDS, a local microwave video distribution option, as well as two further terrestrial channels - all in their own ways offering platforms that could readily be used to deliver 'local TV'.

All but one of these 'local' options - the fifth channel - were quickly withdrawn and while the Cable Authority advised cable companies to ignore the 1984 Act's requirements so far as 'local and community' contributions were concerned.

We had a statute that imposed no requirements for mandated services but merely required whatever proposals were made to be taken into account in franchise decisions. John Davey, Director of Cable and Satellite, Independent Television Commission (formerly Director General of The Cable Authority) (4)

Faced with poor cable growth, the 1990 Broadcasting Act set out to rescue cable from the earlier political misjudgement that markets could supply (nearly) all, the poor regulation and unfavourable investor interests. Stakeholders were encouraged by excluding MVDS as an independent source of 'local competition' and relaxing European investment rules. The sixth channel was abandoned for its apparent 'lack of spectrum' - and its frequencies (reaching one third of the UK population) allocated to support the fifth channel. In short - the climate surrounding the 1990 Act attempted to save face by adjusting cable build targets and bending cable's objectives to suit the demands of reluctant investors. The controls of the local authority as highways authority' to supervise public utility rights of way in effect offered cable companies 'utility' impunity in gaining access to public and private land and to (eg) tenemented properties and flats. (5)

The ITC maintained its preference for the 'large scale' (commercial) channels of ITV and suggested that the new fifth channel should be 'essentially national' even when viewers' had indicated otherwise and in spite of the legislation not requiring the ITC to have a view on the fifth channel's 'scale'.

By 1991 the viewer's preference for a more localised regional TV service was overruled by the ITC in favour of more manageable bids constructed around the existing ITV regional maps.

From 1993-95 the ITC insisted that the fifth channel be 'essentially national' in character, a view belatedly withdrawn following legal advice because there was no foundation in the 1990 Act for the ITC to maintain a preference for 'national' over 'local' in the use of the fifth channel spectrum. The admission that 'the ITC should not have taken a view' was then too late for the preparation of a competitive Local TV plan.

Proposed legislation weakened in Government amendment then poorly introduced

Yet when opportunity has allowed, reasonable and well thought out 'Local TV' amendments have been introduced to Westminster on behalf of Local TV.

Several amendments to the 1995 Broadcasting Act were proposed by Lord Dubs, Baroness Dean and Lord Thomson of Monifieth - the former Chair of the Independent Broadcasting Authority. And these made practical provision for urban and rural forms of Local TV in:

- (a) an area of the United Kingdom in which the population is not greater than 800,000 adult residents which includes one centre of population with more than 350,000 adult residents, or
- (b) an area of the United Kingdom in which the population is not greater than 500,000 adult residents which includes no individual centres of population with greater than 150,000 adult residents.

In resisting these proposals Lord Inglewood for the Government was prompted to reply:

The amendment that **we shall bring forward will enable such services to develop**. I hope, in the light of my assurances that the Government agree with the principles behind the noble Baroness's amendment and that we will bring forward a considered amendment, that she will agree to withdraw the amendment before us today. (my highlight)

Throughout the debate support was evident from both Houses of Parliament for workable Local TV provisions to be introduced:-

Local television, by connecting citizens to one another, could regenerate a sense of community and shared identity. We are promised many dozens of channels [with digital] yet again there is a gaping hole in the Government's proposals to provide local services rather than more of the same. In Bruce Springsteen's words: "two hundred channels and nothing to watch". Graham Allen MP, Shadow Minister for Broadcasting, Hansard 7 December 1995.

It has always seemed rather a paradox that ... there has never been the encouragement to move on from regional television to genuinely local television – city television and voluntary local channels of one kind or another. Lord Thomson of Monifieth, House of Lords, Hansard 15 February 1996.

The 1995 Opposition amendments were withdrawn in favour of the then Conservative Government's own version of the 'RSL' alternative. But even when this was belatedly presented by the Government it was interpreted to serve 'special events or university campuses' and to restrict Local TV's 'defined locations' to (eg) *the racetrack at Silverstone*. The intention was clearly **not** to offer an amendment that would '**enable such services [as had been outlined by Baroness Dean] to develop**'

The ITC's involvement from 1997 in constructing the terms of the RSL licences included offering spectrum regardless of poor reach, with a weak signal and where transmission would not be in the prevailing aerial group or same polarisation as existing local reception. Central indifference to these important engineering factors further restricted the usefulness and success of the RSLs. Local TV began to develop its own competency in engineering.

Public communications regulation for less than all the public

Over the last two and a half decades the state's monopoly of communications legislation and regulation has not been used for the benefit of all or to serve a renewed public purpose. For over two decades Conservative and Labour Government has failed – indeed has thwarted - the strong, consistent demand from urban and rural communities for local variations of *public service broadcasting*. Ofcom describe public service broadcasting not as a *universal service* but as having 'wide availability'. So who now represents the public *who do not receive a public service*?

Impact of spectrum trading

The current commitment by the Labour Government and Ofcom to establish auctions and to trade spectrum in the broadcast bands and to encourage regulation through markets and secondary trading is not in the public interest. This form of regulation will not achieve local channels for all failing to address the continued public demand for universal access. Only a universal network of small, medium and large local TV channels serving urban and rural areas will be able to share community of interest programmes (see Institute of Local Television submission(s) to Ofcom Digital Dividend Review) and address advertising in competition with the established broadcasters

and serve a public purpose.

Among respondents (Ofcom, 2006a) the 'market' approach has not found support to replace a more responsible 'intervention'

8.16 It was also a common opinion that as the airwaves are a national resource, some control should remain with the Government. If this does not happen, then what was once available as a 'public' resource may be used for services that do not benefit society. The groups held the strong opinion that an independent body is required to ensure that a good quality service is provided to *the maximum number of people*.

8.17 Emphasis was placed on the quality of services, rather than the quantity of channels. It was unanimously thought that ensuring universal coverage should come before additional channels. Many of the current Freeview channels were thought to be of poor quality, and so adding more would be a waste of resources, unless some kind of regulation was in place to ensure the quality of new content. However, there was a balance to be struck, and it was felt that a regulatory body should not become so interventionist that it bordered on, for example, content control and censorship.

8.18 In addition to the concerns about the quality of programming, there were also concerns that the proliferation of channels was potentially at odds with providing value to society. (my highlight)

Campaign for Local TV

In 2006 the Campaign for Local Television conducted an e-survey on alternative uses for some of the little watched commercial digital TV channels broadcast on Freeview – finding *all* respondents keen to give up at least one quiz or shopping channel so that its spectrum could be used to deliver a Local TV channel.

Spectrum cannot be used efficiently if it is being used to deliver unwatched services. (see <http://www.commentonline.co.uk/survey/>)

Speaking in the House of Commons's debate on Community Radio and Television Peter Holmes for the Liberal Democrats:-

There has been a proliferation of TV channels, and of quiz and shopping channels, all of which are of low quality. There have been two or three recent scandals about quiz programmes, which have been a rip-off involving conning consumers who telephone into thinking that they can win prizes when the results have been decided in advance. The Government must look again at how some of the spectrum could be more usefully allocated to community TV. Hansard Column 214-215 14 April 2007

Timetable for introducing Local TV with *public purpose*

As spectrum scarcity was to disappear with digital switchover Lord McIntosh, Minister at the DCMS, wrote in his Letter of Address to the Scottish Local TV Forum on 23rd March 2005:

...we need to start thinking **now** about what we want local television to be in the future as we need to have a licensing regime in place for when spectrum does become available.

And a year later in January 2006 Ofcom's *Digital Local* proposed the following timetable:-

- If required, Government consults on order for local TV licensing regime for digital terrestrial services: early 2007
- If required, Ofcom develops licensing regime according to terms of Government order and consults on spectrum allocation process for local digital terrestrial services: first half 2007
- If required and where appropriate, first DTT local licences advertised and awarded in selected areas: second half 2007

The local public service/public purpose role

Ofcom took the view in *Digital Local* that past regulators had not been interested in Local TV – because channels could not then have been made widely available.

In this study Ofcom recognised that for Local TV to be widely available it should serve a **public purpose**:-

[Ofcom] propose five public purposes for local content services, based on a version of the wider purposes of **public service broadcasting** identified in the PSB Review, adapted for local content. (my highlight) ...

- To inform ourselves and others and to increase our understanding of the world through

news, information and analysis of current events and ideas, **with particular focus on issues relevant to our locality**

- To stimulate our interest in and knowledge of arts, science, history and other topics, particularly those relevant to our locality, **through content that is accessible and can encourage informal learning**

- To reflect and strengthen our cultural identity, particularly that based on shared local

identities, through original programming at local level, **on occasion bringing audiences together for shared experiences**

- To make us aware of different cultures and alternative viewpoints, through programmes that reflect the lives of other people and other communities, **especially those within our local area**

- To support and enhance our access to local services, **involvement in community affairs, participation in democratic processes and consumer advice and protection** (P4) (my highlight) Ofcom's *Digital Local*, January 2006

Without all homes having access to a Local TV channel - at little or no additional cost - Local TV will be unable to fulfil its 'public purpose'. Ofcom's key points (above) can only be realised through Local TV's delivery to the home on a universal platform and – **for bringing audiences together for shared experiences** digital terrestrial television is that platform.

The Add/Drop Solution for Local Public Service Television

The 'add/drop solution' was first proposed at the Scottish Local TV Forum in March 2005.

Add/drop **'offers the most consistent and convenient solution, and potentially offers the widest reach for Local TV of all the terrestrial options'**. (Ofcom, 2006b) The add/drop option converts a new national channel introduced into PSB mux (a so called – 'local network channel') into a local channel at each main transmitter site. At each

site the signal is then 'localised', replaced by the Local TV channel for all or part of the day. The new channels is remodulated with the national PSB channels and transmitted to each Freeview home directly or via relays causing no interference and requiring no new transmitter or reception equipment by the operator or the householder. It is a simple and elegant solution guaranteeing 'Local TV for all'.

The most efficient point at which to introduce Local TV is during digital switchover, area by area, when spectrum is 'gained' in the PSB muxes during conversion from 16QAM to 64QAM.

Digital UK – local TV 'a valuable potential benefit from DSO'

Local TV offers a unique welling point and a service of interest to many who are not otherwise keen on converting from analogue to digital for the sake of extra 'national' channels. Local TV is a different type of service offering a new dimension to public service broadcasting. Digital UK wrote in their response to Ofcom's DDR consultation:-

Digital UK believes that local television services will be perceived by viewers as a valuable potential benefit from DSO and therefore help to underpin the process. Ofcom should ensure that some of the available spectrum ends up being used for new television services (local or otherwise) in order to deliver on public expectations from DSO. Failure to do so may create negative sentiment towards the programme. (DigitalUK, 2007)

Public Service Publisher

The Public Service Publisher (PSP) was identified as a possible new source of public finance in Ofcom's PSB Reviews as a way of addressing (ameliorating) a public programming shortfall as the commercial TV companies withdrew from PSB responsibilities – nationally but also *regionally*. £70m of this 'public loss' can be identified as *lost regional programming*.

This regional sum of £70m should be earmarked to support the introduction of Local TV – in particular to support local news and identity enhancing programming as regularly identified since 1974.

Draft Order of Licence

Section 244 of the Communications Act 2003 makes provision for a licensing regime for digital Local TV being introduced by order of the Secretary of State. Together with Public Voice, the Community Media Association and the views of those we have canvassed and represented in the ACTO directories (<http://www.maccess.org.uk/members/ilt.html>) the level of demand and qualities required from Local TV **on TV** warrant its introduction on DTT as *local public service television*.

244 Local digital television services

(1) The Secretary of State may by order provide for

(4) Services fall within this subsection if the Secretary of State considers that they are services in relation to which all the following conditions are satisfied-

- (a) they are intended for reception only within a particular area or locality;
- (b) their provision meets, or would meet, the needs of the area or locality where they are received;

(c) their provision is or would be likely to broaden the range of television programmes available for viewing by persons living or working in that area or locality; and

(d) their provision is or would be likely to increase the number and range of the programmes about that area or locality that are available for such viewing, or to increase the number of programmes made in that area or locality that would be so available.

(5) Services shall be taken for the purposes of subsection (4) to meet the needs of an area or locality if, and only if-

(a) their provision brings social or economic benefits to the area or locality, or to different categories of persons living or working in that area or locality; or

(b) they cater for the tastes, interests and needs of some or all of the different descriptions of people living or working in the area or locality (including, in particular, tastes, interests and needs that are of special relevance in the light of the descriptions of people who do so live and work).

(6) In subsections (4) and (5), the references to persons living or working in an area or locality include references to persons undergoing education or training in that area or locality.

(7) An order under this section in relation to a description of services may, in particular, impose prohibitions or limitations on the inclusion of advertisements in services of that description and on the sponsorship of programmes included in the services.

(8) The power, by an order under this section, to make incidental, supplemental or consequential provision in connection with provision authorised by subsection (1) includes power to make incidental, supplemental or consequential provision modifying provisions of the 1990 Act, the 1996 Act or this Act that are not mentioned in that subsection.

(9) No order is to be made containing provision authorised by this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

In the passing of the Act the Government considered Ofcom had been given sufficient powers and the necessary encouragement to introduce local and community TV. In rejecting Lord Thomson of Monifeith's amendments to better secure local and community TV on 6 May 2003 Baroness Blackstone's responded for the Labour Government:

Given that the powers will exist to license access radio and local TV [in the Communications Act], it is not clear what point is served by giving Ofcom an additional duty to promote those services. Ofcom already has a number of general duties that one would expect to encourage the development of local TV and access radio. I am confident that that will happen. Ofcom's duty in Clause 3(1) is to further the interests of consumers and the community as a whole. Put that in the context of Ofcom's duty in subsection (2)(c), to secure, "a wide range of television and radio services which . . . are both of high quality and calculated to appeal to a variety of tastes and interests" and one can see the relevance of Ofcom supporting and encouraging the development of community TV and radio. In the light of Ofcom's existing pow-

ers and duties there is not, in my view much, if anything, to be gained by adding yet another duty to promote community media. Hansard Column 1059

Parliamentary and electoral support in 2007

At times this seems an interminable Bunyanesque or Sisyphusian task. Five years later political support for community media, community radio and local TV on DTT continues to be strongly demonstrated and made available throughout Ofcom's consultation on the Digital Dividend Review. 147 MPs signed Ian Stewart's Early Day Motion (922) which included:

This House ...calls on the Government to introduce secondary legislation to ensure that community and local television has access to the digital spectrum and also that sufficient space on digital spectrum is reserved for community media when considering Ofcom's Digital Dividend Review.

Ian Stewart's Adjournment Debate in the House of Commons on 24th April was supported by MPs from all the main parties (6).

Edward Vaizey for the Conservatives

Community TV is, however, set to change radically during the next few years, and the switch to digital will present a huge challenge, so I await with great interest the outcome of the digital dividend review consultation. It is clear that there are advantages and drawbacks both to the interleaved option, which the Community Media Association favours, and to the add/drop method, which my local television station SIX TV favours. I do not want locally auctioned channels to be block-bought and turned into gaming or shopping channels; there must be a system to ensure that local television continues (Column 217)

And again from Ian Stewart (Labour)

...the potential impact of community media fully lives up to the prediction made about the pilot community radio scheme by Ofcom's assessor, Professor Anthony Everitt, who said that the sector's arrival would be

"one of the most important cultural developments that this country has seen in recent years".

Despite the barriers faced by the sector, however, I stress that the solutions are available and achievable. They lie in bandwidth, recognition and funding. I propose that the DCMS and Ofcom put community media on a par with that other public service broadcaster, the BBC, and follow the line of the must-carry provision as the media hurtle onward from analogue to digital transmission. Auctions, market forces and light-touch regulation simply will not do when the interests of the millions of beneficiaries of community media are under consideration. There can be a digital dividend for community media, if bandwidth is reserved for community media groups. We should not be dependent on the whims of media corporations or slithers of frequency that are deemed not to be commercially viable. Community media is too economically and culturally valuable simply to be left to feed off scraps from the media table. (Column 203)

In the May 2007 election to the Scottish Parliament the SNP, Liberal Democrats and Greens supported the devolution of communications regulation and/or establishing local and community TV. Some 47% of the votes cast during the election were for political parties making a manifesto commitment in favour of a devolved or a more autonomous and localised public service broadcasting.

Scottish Liberal Democrat Manifesto 2007 P82

Digital broadcasting offers enormous potential for the development of local and mobile television broadcasting, wireless broadband and other technologies as a result of the frequencies being released from digital switchover. We will work to ensure that Scotland has its fair share of the benefits provided by this 'digital dividend' and we will work with stakeholders to realise the potential of community media to bring communities together and share information.

Scottish Green Party Manifesto 2007 P12-13

The switchover from analogue to digital broadcasting should be an opportunity for local community broadcasting, not just ever-increasing numbers of commercial channels. We will continue to press Westminster for more powers over broadcasting.

Scottish National Party Manifesto 2007

An SNP government will push for the devolution of broadcasting powers to the Scottish Parliament.

The numerical majority of MSPs in the recently elected Scottish Parliament support devolved regulation, appropriate use of spectrum and/or local television broadcasting. To this majority can be added many from among the Scottish Labour group who for the Scottish elections observed a strict unionist line offering no further concessions on powers reserved to Westminster. The Cross Party Media and Culture Group chaired by Cathy Peattie (Scottish Labour) had presented its Motion to the Parliament before the recess:

Short Title: Future of the Digital Spectrum S2M-05721 Cathy Peattie (Falkirk East) (Lab):

That the Parliament notes the proposals for the disposal of the digital spectrum, largely by sale to the highest bidder, when it is released as a result of the cessation of analogue television; is concerned about the inadequacy of proposed safeguards regarding its future use; notes that, among the potential uses of this digital dividend, there are many which have significant implications for devolved issues, particularly for the cultural content of programming, for news coverage of Scottish current affairs, for Scottish creative industries and for other aspects of the Scottish economy; further notes that there is great potential for use of the digital spectrum at a more localised level, and believes that the digital dividend should be used to strengthen and extend the public service use of the spectrum by ensuring that capacity is reserved on digital multiplexes throughout Scotland to enable the growth of local and new Scottish television channels.

The Motion gathered cross-party support from: Malcolm Chisholm (Scottish Labour), Trish Godman (Scottish Labour), Dr Jean Turner (Independent), Marilyn Livingstone (Scottish Labour), Kenneth Macintosh (SNP), Helen Eadie (Scottish Labour), Donald Gorrie (Scottish Liberal Democrat), Nora Radcliffe (Scottish Liberal Democrat), Frances Curran (Scottish Socialist Party)

In Wales there is also cross-party support for devolved spectrum and Local TV:

Welsh Liberal Democrat Manifesto 2007 P52

Examine the opportunities created by digital switchover and greater spectrum availability for more community and regional television stations, including increased Welsh language provision.

Don Foster, Liberal Democrat MP for Bath and his party's spokesman on broad-

casting, said that concerns similar to those raised in Scotland had been echoed in other parts of the UK. He is lobbying for a national debate on the future use of spectrum. He proposed that some spectrum should be reserved for wireless broadband, "because of the inabilities of cable in some parts of Wales."

Lembit Opik, Liberal Democrat MP for the Welsh constituency of Montgomeryshire, told *New Media Markets* that he wanted to see more local involvement in the decision-making process. What we don't want to do is to allocate everything now "it would be an unwise move," Opik said.

"Politicians should be involved in what we want to happen, not how it's delivered. I'm agnostic in auctioning it off - there is risk of a monopoly." He added: "I'd like to see more local programming and access to do that." (*New Media Markets* Vol 26 No 12 23 March 2007)

In the debate at Westminster on powers to be devolved to the Welsh Assembly Adam Price (Plaed Cymru) drew attention to a comparison of provisions for Wales with devolved broadcasting powers to the Spanish regions (7)

The amendments seek to expand the competency of the National Assembly in various areas. On broadcasting, there is an anomaly in the devolution settlement: cultural policy is devolved and will continue to be so, but broadcasting remains entirely a reserved matter. That is not acceptable, because broadcasting is arguably one of the most important and far-reaching cultural media we have In the European Union, local television and radio are not reserved under the Spanish constitutional settlement and that has allowed the Basque region some flexibility in developing a Basque medium television service in the different regions of the Basque country. Broadcasting will need to remain a competency at the UK level, but these proposals do not even allow for the possibility of shared competency. Given the likelihood of further developments, such as television through the internet, the clear dividing line in legislative competence in this Bill will not be conducive to such developments. 30 Jan 2006 : Column 60

Cathy Peattie (Labour) and Stewart Maxwell (SNP) were also interviewed by Verity Adams for *New Media Markets* (Vol 26 No 12 23 March 2007) in an article headed:

Scottish and Welsh MPs call for spectrum devolution

Members of Parliament representing constituencies in Scotland and Wales this week called on Ofcom to devolve responsibility for spectrum allocation and management. The request came as the regulator closed the three-month public consultation on its Digital Dividend Review (DDR), which will set the framework for the allocation of spectrum freed by analogue switch-off.

Much of the debate on the future use of the frequencies has so far been on whether they should be used to provide high-definition television (NMM March 2, 2007) or mobile television (NMM February 2, 2007).

Several members of the Scottish Parliament and the Welsh Assembly used the consultation to request that spectrum should not be allocated by a central UK organisation but on a devolved basis. Stewart Maxwell, Scottish National Party MSP for the West of Scotland, said that media policy-making power should be moved away from Westminster and a Scottish equivalent of Ofcom created.

"There is great scope for local TV in Scotland because of the diversity of the geography," Maxwell told *New Media Markets*. Cathy Peattie, Labour MSP for Falkirk East, added: "Scotland and its regions have distinctive cultures that are

inadequately served through UK-wide media." She said that there would be "many potential economic benefits arising from more devolved broadcasting", including employment.

In her submission to Ofcom, Peattie said: "The digital dividend should be used to strengthen and extend the public-service use of the spectrum by ensuring that capacity is reserved on digital multiplexes throughout Scotland to enable the growth of local and new Scottish television channels."

Conclusion and recommendations

Section 244 powers of the 2003 Communication Act should be used to create a new licensing regime for local public service television for the delivery of local channels with licensing requirements based on identified geographic areas and Ofcom's 'Public Purposes' as outlined in *Digital Local*.

Fulfilling local public purpose should be required of local television broadcasters in exchange for access to digital spectrum on the PSB muxes.

If a Public Service Publisher (PSP) fund is created, the £70m identified as representing the regional programming lost in the course of the switchover transition should be allocated to Local TV PSB programming and channel delivery.

The Draft Order of Licence should be presented to Parliament in time for local channels to launch with digital switchover arriving in each area.

NOTES

1 Public Voice submission open letter to the DCMS and DTI.

2 Letter of Address to the Scottish Local TV Forum in Edinburgh March 2005

3 Report of the Committee on Broadcasting Coverage, HMSO, 1974.

50. ... an interest in regional programme variations grows in importance, as viewers become more selective and more aware of local loyalties and interests. The latter is an increasingly prominent feature of our national life, both politically and culturally, and there is a demand for it to be reflected in television, for the present regional variations to be developed and for programme-making to become less dominated by the metropolis. These points figured prominently in the representations made to us.

In conclusion the Committee recommended:-

9. The BBC should also experiment with sub-opt-out programmes within their English regions. (Paragraphs 57 (c) and (e).)P 75

15. The BBC in Scotland should, when resources allow, introduce an element of regional diversification in programmes, eg in Northern Scotland, by sub-opt-outs from BBC Scotland. (Paragraph 57 (b).)

and for the use of the VHF 405-line spectrum released after switching to UHF 625-line the Committee recommend: -

37 ... two services with some 85% of national coverage, for regional services if required, or for a single national service and some local services, or for other combinations, and we consider that it should be reserved for these purposes. (P 18)

The Committee reached conclusions pointing towards cable's contribution and lo-

cal government involvement in future localised provisions:-

48 (b) ... where appropriate any local government or other authorities concerned, to examine whether, in particular areas of whatever size which are brought forward by any of those taking part, [Home Office, Post Office, Broadcasting Authorities and 'where appropriate local government'] wired distribution should be adopted rather than a transmitter for the coverage of a community, and to lay down the technical and financial conditions under which it should be set up and maintained. (P 24)

64 (b) ... there would be an advantage in the number of areas into which the United Kingdom is divided by the BBC and the IBA for regional programme purposes being increased, but we accept that for good practical reasons this is not likely to be possible in the near future. The disadvantages of the present structure can, however, be mitigated by the provision in some areas of local interest programmes put out from particular transmitters. (P 36)

4 John Dovey in his Introduction to Roger Wilson, *Local Television, Finding a Voice*, Dragonflair, (1994) (P4)

5 Looking back to 1984, cable television failed to find commercial interest among UK investors. The programming available from satellite was of poor quality and video cassettes offered a growing and popular access for those who wanted to watch movies at home.

To recover the lost ground of its ambitious cable plans in 1988 the government encouraged inward investment from mostly US and Canadian cable and telecommunications companies. There interest appeared to salvage something of the earlier promise but at the expense of maintaining a majority European ownership as required by the legislation and so these companies were to enter on terms favouring the investors rather than the public.

The regulatory bodies responsible for supervising the programming and telephony in the introduction of cable - the Cable Authority and Oftel respectively - loosened their grip, withdrawing investment restrictions upon the cable investors in order to secure their commitment. Oftel permitted completion targets for cabling to slip further and further into the future - in order to sustain the companies' waning interest in the teeth of a recession. The Cable Authority supported the cable companies' demands for the control of channels as well as for their delivery. This 'light touch regulation' as it was officially known became ethereal and played entirely into the hands of investors who were pleased at being able so easily to squeeze the regulators with threats of withdrawal and loss of economic momentum for a second time. (P2) Dave Rushton, *Cabling Edinburgh's New Town: Trick or Treat?*, Planning Committee New Town, Broughton and Pilrig Community Council, 1994

6 Community Radio and Television, <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070424/halltext/70424h0001.htm>

7 Acts of the Assembly, <http://www.publications.parliament.uk/pa/cm200506/cmhansrd/cm060130/debtext/60130-16.htm>

REFERENCES

DigitalUK, (2007) appearing (P 18) as 'digitaluk.pdf' in responses to Ofcom's DDR on <http://www.ofcom.org.uk/consult/condocs/ddr/responses/>

Francois, J (2004) *Feasibility Study into Proposed Community Television Station for*

Merthyr Tydfil, 2004

Friedli, A (1993) 'Cable Company Franchise Commitments' in Rushton, D (ed) *Citizen Television: a local dimension to public service broadcasting*, John Libbey.

ITC, (1990) *Mapping Regional Views*

Kitchenman, P (1993) 'Edinburgh Television Study' in Rushton, D (ed) *Citizen Television: a local dimension to public service broadcasting*, John Libbey.

MORI (2005) Ofcom's study conducted by MORI in 2005, titled *Programmes in the Nations*, and published on Ofcom's website in February 2005

Ofcom (2006a) Digital Dividend Review Consultation, December 2006, including as an annex *Report of consumer research conducted for Ofcom by Holden Pearmain and ORC International (May 2006)*

(Ofcom 2006b) *Digital Local Report*, January 2006 and published in a limited edition on paper and on the Ofcom website.

Rushton, D (1993) 'Reading the 'ITC's Mapping Regional Views'' in Rushton, D (ed) *Citizen Television: a local dimension to public service broadcasting*, John Libbey

Sancho, J (2002) *Pride of Place*, ITC P 29

Spectrum Matters

Based on presentation to Westminster eForum Keynote Seminar: Digital Dividend Review, 28th February 2007

First of all, given the choice I really wouldn't start looking at Local TV based on the regulatory assumptions of the Digital Dividend Review. These do not reflect how Local TV is understood on the ground or seem at all sympathetic towards how Local TV might best be put in place as a service that might achieve local public purpose.

My first concern is that Ofcom characterises the spectrum user exclusively in terms of the service operator or provider. I think the case has been made lately from several points of view that the operator stands at one end of the communications link involving spectrum and that in order to understand spectrum use, and in particular to fulfill Ofcom's objective of exercising efficient spectrum use, we need knowledge of both how the signal is received as well as how transmitted.

If for example, no one is watching a television channel at any particular time, then the spectrum that's delivering that channel is not being used very efficiently. If no one is receiving the signal at all there is no communication, and spectrum is entirely wasted. Now if spectrum efficiency is really Ofcom's objective then the efficient use of spectrum for communications can only be measured through the success and extent (in some cases) of its use at reception.

I'm very concerned that the emphasis in Ofcom's promotion of the market as a more efficient regulator than intervention places the future idea of spectrum efficiency firmly in the hands of operator and their commercial efficiencies.

Efficiency for the operator need not address spectrum used efficiently at all: quite the reverse I suggest can follow from commercial efficiency. From an operational point of view it might be more efficient commercially not to provide services in some areas and to trade surplus spectrum on the proposed secondary markets.

The second issue is that terrestrial spectrum for broadcasting, is either regional or local in its use – it is never national. There is no national spectrum – only spectrum combining regional and local use provides national coverage for a signal. Now that we all live in devolved nations, with Scotland, Wales and Northern Ireland increas-

ingly engaged in pursuit of devolution as a process, it strikes me that we are looking to an old nation-state regulator's self-image whose contribution to maintaining an over-arching control will be to make themselves and regulation disappear before the individual nations have an opportunity to decide how spectrum in the nations should actually be used, economically and culturally to deliver services that can better reflect the devolved powers and the identities the nations have achieved.

Coming even further down from the nations to a scale where spectrum is even more closely aligned to its use, I'm reminded that Baroness Dean drew attention in the House of Lords as one of the amendments to the 1995 Broadcasting Bill, that local Broadcasting Trusts should be established to regulate local television services, then local services on cable but potentially for the future on digital TV. Here there is some precedent in drafting and thinking about communications legislation as well as considerations on behalf of the nations and local areas, on behalf of their needs and aspirations, economies and cultures where there are new sites of intervention and regulation remaining deprived of spectrum to shape. The DDR offers this spectrum and yet its announcement heralds the prospect that regulation itself will disappear in favour of large probably existing UK scale or bigger commercial operators with secondary markets for trading utterly indifferent to the requirements, democratic authority responsibilities and policies or these parliaments, assemblies and their administrations.

You'll gather I don't think that markets will improve spectrum efficiency, it is just as likely the reverse will occur because national spectrum will be acquired but only used to reach the commercially accessible 70% of the population, leaving maybe 20 or 30% overlooked because providing transmitters to reach this final 20-30% is disproportionately expensive in comparison with the financial returns. Given the choice to regulate through markets and secondary trading, operators will push the less commercially efficient spectrum into the market. But who will use it? Those titbits of spectrum – if imagined for television especially – require large numbers of transmitters and individually and together they cover the areas the commercial operator finds it most difficult and expensive to service. These transmitters and the spectrum they might use would be reaching a scattered population remote from the urban centres which have been cherry-picked for their large scale populations not to deliver fully national services. The spectrum placed in this secondary market will be wasted, devalued in being disconnected from the whole or if used at all used less well to deliver different and perhaps more costly services than those provided to the urban areas identified and retained by the primary operator. The market here becomes a get-out for regulator and operator alike – a commercial escape hatch where spectrum is ejected not to be used or to be used less well, picked up and subdivided into services quite different – possibly vastly inferior – to those enjoyed by the majority.

So, again, I think we need to look at spectrum efficiency, from the point of view of both those who might receive services and those who might operate services. We should look at spectrum's conjoint use as involving transmission and reception – and look at how spectrum might improve communications for all.

So my concern then, when looking at Ofcom's thoughts on interleaved spectrum for Local TV in the Digital Dividend Review, is that we need to take account of the viewers having already an in-group aerial on their roof that's polarised in a particular way and which faces a particular direction to pick up analogue and now digital television. That is, both the transmitter and receiver locations

are already determined for Local TV by the other TV services already in place and

coming through. Television reception in particular is fairly inflexible. The legacy of analogue broadcasting has put in place a pretty rigid transmission and reception network which digital TV and later Local TV has to integrate with, follow the grain to ensure that any Local TV signal broadcast can successfully be received and the spectrum it occupies efficiently used. The legacy of In Group aerials, the transmitters or relays currently providing signals determines the path in each area that Local TV must follow.

Ofcom has put forward two proposals in the Digital Dividend Review (DDR) for Local TV. For one of these, interleaved spectrum, it has undertaken a very limited amount of now outdated and piecemeal hotch-potch engineering. The second option it has ignored – although mentioned – the work on this option has been undertaken privately in spite of Ofcom's two year long refusal to meet, discuss, contrast and compare options.

With Ofcom's Interleaved Spectrum out of a total of 44 areas identified across the UK, 15 of these areas have been offered with spectrum that viewers will be unable to receive because the signals are outside the aerial group used in those areas. Ofcom has also offered only Gross Coverage figures – which do not enable an accurate assessment of the likely numbers of viewers in any area. In all but two of the 29 remaining areas where interleaved spectrum was considered – where local signals might be received – modifications are necessary to the transmitted signals in order to avoid causing interference with other broadcasters. The scale of any of these modifications and the populations they'll affect are not disclosed.

So, if you look at Local TV on interleaved spectrum from a reception perspective – which is absolutely necessary if you would like to have viewers watch your service – the remaining 29 areas where Local TV might be possible do not cover much of the UK, and where there coverage is suggested it might be good, bad or indifferent depending on the antenna restrictions that Ofcom needs to apply to avoid causing interference for other broadcasters.

We're left with the conclusion that Ofcom does not understand the engineering of Local TV because they are saying 'Go and find an audience that fits the spectrum we've found', rather than as we've said: 'Here are audiences identified by county, city and regional boundaries, we should try and find spectrum as far as possible to include those audiences.'

There's no doubt Ofcom know where Local TV starts from. Ofcom were asked by the Department for Culture, Media and Sport in 2004 to look at provision of 'local TV for all'. They have refused to deliver a 'national local plan' and instead offered a smattering of interleaved spectrum options constrained by antenna restrictions which would only be received in a handful of areas.

Broadcasting on spectrum that is out of aerial group and which cannot be received is an extremely inefficient use of spectrum when other uses such as PMSE could make a far more efficient call on that spectrum. Ofcom's contribution for Local TV amounts to a very surprising suggestion.

Like any other service, Local TV requires spectrum that can be transmitted and received. Ofcom suggest that overall interleaved spectrum may have a gross coverage of 70% across the UK - but it will only achieve successful reception in perhaps 20 or 30% of those households where receiving aerials are in the same group as the transmitted signals. Moreover, those areas watching TV

from relays rather than from transmitters are not included in the interleaved spec-

trum option – that's to say 40% of Dundee – an area I know well from running an analogue service – would not be able to receive a Local TV signal because it would only be broadcasting from the transmitter and not from relays. Many areas are the same with high dependency on relays and every likelihood of antenna restrictions removing areas where other services have relays using spectrum.

The second option, the add-drop solution is introduced briefly in the Digital Dividend Review. Add/drop utilises all the 1152 transmitters and relays so can be 'seen' by all those households in reach of the PSB muxes (98.5% of homes). Delivery to the more remote parts of the country is important for Local TV – and to include rural as well urban communities, rural and city TV services

– as well as to address communities split between two transmitter sites. The add/drop option ensures all signals remain in group. Reaching every household is particularly important for Local TV as a public broadcasting service, in order to fulfil Ofcom's public purpose and to include equally rural communities as well as the metropolitan areas. Also to have a chance of being commercially viable Local TV needs to achieve from the outset the levels of access available to the present local media. The experiments with analogue Local TV have shown just how critical it is to reach as many homes as possible without cost to the viewer.

If we take as an example one of the 81 transmitter sites – the Bilsdale transmission area serving Teesside and York and Harrogate to the coast. Bilsdale has a number of relays in the north of its transmission area, none in the south where the terrain is flatter. In the north aerials in different groups face several directions to enable each household to 'see' and pick up their most accessible signal.

If we were to deliver Local TV here on interleaved spectrum – we'd find that the southern part of the Bilsdale reception area – would have good reception (if the height on the mast signal strength were good and antenna restrictions were not too severe). In the north around Teesside and westwards there are several relays – so many households would not receive a Local TV signal because the interleaved spectrum option does not include relay transmission.

The example of Bilsdale is echoed with varying degrees of difficulty across all transmission areas. Without using relays interleaved spectrum fails to offer Local TV close to universal audiences in any local area.

What we're proposing with add-drop is a fairly simple solution that involves a new national channel introduced into the present national PSB muxes. The 'Local Network Channel' would be distributed to all the transmitter sites. At each of the 81 transmitter sites an 'add-drop' box de-modulates the incoming signal takes out the Local Network Channel and replaces it with a Local channel

Ofcom confirm in their Digital Local Report of January 2006, *that add-drop offered the best solution for the TV viewer, the widest reach for Local TV of all the terrestrial options.*

Therefore, I recommend that add/drop be explored on the PSB Muxes using the spectrum to be released in the change from 16 to 64 Qam during digital switchover and failing that introduced on a dedicated local mux on cleared spectrum.



To be removed from the **ACTO** electronic mailing list please advise local.tv@virgin.net