

# The Future of Broadcasting

Policy Paper 49





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# Summary

The main proposals in this Liberal Democrat policy document include:

- There should be a strong public service ethos underpinning broadcasting, and that this is best achieved through the BBC in its current form, along with public service remits carried by other broadcasters.
- The BBC should be funded by the public and not through advertising. Therefore it must also be ring-fenced to a certain extent from direct market competition and have a high degree of accountability to the public. The current licence fee is the best way to achieve this, although there is scope for encouraging the BBC to make greater use of its commercial operations and borrowing (whilst remaining not-for-profit).
- All public service broadcasting should be assessed in relation to the criteria laid down for public service broadcasters in 3.3. This must be taken into account by OFCOM in terms of the public service broadcasters it will regulate. To ensure that the BBC meets these criteria, the BBC should be accountable to the National Audit Office and the Public Accounts Committee.
- To simplify regulation there needs to be one regulator, OFCOM, for all communications, ensuring consistent regulation for all broadcasters. This must take into account all aspects of broadcasting; content, technology and ownership. It is also important to ensure that OFCOM is fully representative of the whole of the UK by establishing specific representation within relevant committees from Wales, Scotland and Northern Ireland appointed in consultation with the devolved administrations. It is also important that OFCOM is more than a loose conglomeration of the existing regulators, providing substantive changes which affect the type and style of regulation which is provided.
- Regulation for all broadcasters other than the BBC needs to be very light touch, giving them the freedom to compete and innovate in the market place. Much of this regulation will focus on ensuring there is fair competition and that cross-media ownership is regulated and restricted appropriately.
- OFCOM should incorporate a separate Content Commission to deal solely with content issues. The Content Commission would use viewers' panels and citizens' juries to assess the public reaction to programmes and broadcasting initiatives, in consultation with the broadcasters to take into account the pressures of production and commercial needs.
- The third tier of BBC regulation, that relating to subjective qualitative issues, should remain under the governors and be kept out of OFCOM at least until the BBC's Charter is renewed in 2006. This will give time for OFCOM to be observed in practice, and for a proper assessment to be made of how the BBC will fit into the structure of OFCOM. Before the BBC can be moved into

OFCOM changes will need to be made to ensure that OFCOM will take proper account of public interest issues, will respect the BBC's protected status and will not see this as anti-competitive, and will be publicly accountable to the government.

- As an integral part of our vision for public service broadcasting Liberal Democrats oppose the privatisation of Channel 4 and S4C and believe it should retain its current funding system.
- Liberal Democrats also propose the origins of Channel 4 as a model for the start-up of new public service commercial channels in the future.
- A single ITV company should be allowed in order that the company survives, but this should be granted provided there are firm and enforceable guarantees concerning regional and community programming, and that ITN is subsumed into ITV and is not sold off to any other company.
- In order for the switchover to terrestrial digital television transmission to work, the government must spearhead an information campaign to inform the public about the benefits of digital transmission, the costs involved and the timetable for switchover.
- Without a firm date for switchover the climate is very uncertain for broadcasters and viewers alike, and so we will set that date as soon as possible. At the moment, we see that as being full switchover by 2010, provided the necessary information campaigns have been run and support has been offered to those unable to switch for any reason.
- Unless circumstances at the time determine otherwise, we believe that the best way of offering this support is to have a partnership between government and broadcasters to pay for this, with one central pot administered by the government.
- Advertising is a very important means of funding channels which do not receive the licence fee, but strong controls need to be in place. The advertising industry should continue to be self-regulated through the Advertising Standards Authority.
- Liberal Democrats will improve access and training for IT so that new technology can lead to lower entry costs for groups wishing to make audio and video programming. This should result in greater diversity of output, so enriching our broadcasting culture. To aid this further Liberal Democrats would ensure that OFCOM has the power to take action to ensure that community groups, voluntary organisations and other non-traditional broadcasters have adequate access to broadcasting platforms.
- To ensure that where a company acts as both platform provider and content provider that company does not use its influence as a gatekeeper to the advantage of its own programmes, the Office of Fair Trading should be instructed to police the access to platforms.

# Foreword

1.1 Over the next few years a revolution will take place in British broadcasting. The pace and direction of change will be dictated by a number of influences. There will be technological change. The convergence of technologies which hitherto provided separate services such as television, telephone and the Internet, and the introduction of digital technology will provide the opportunity for greater choice and greater interactivity.

1.2 There have to be regulatory changes to match the new circumstances. Tougher new competition laws in both Britain and across the European Union aim to root out anti-competitive behaviour and allow competition decisions to be taken by strong, proactive and independent competition authorities; and a paving bill was introduced into Parliament in 2001 to provide for a powerful new regulator, OFCOM, to have oversight of the converging technologies. The aim is to give the consumer the best possible deal that market forces can provide, whilst equipping British companies to compete in an increasingly global market place through greater efficiency, productivity and competitiveness.

1.3 It is against this background of technical and regulatory change that Parliament embarked in 2002 on two years of legislation creating a new Communications Act governing our television, radio and newspaper industries. The new Act will also cover the new communications technologies such as mobile phones and personal computers which have now grown up alongside the older communications industries. Parliament will also be providing a new Charter for the BBC,

which will take effect in 2006. Thus in the space of a single Parliament, we will be determining the shape and make up of what has been described as the ecology of our converging communications industries, well into the twenty-first century.

1.4 We do so with a powerful legacy to protect. The old boast that Britain's is the best television in the world may be open to debate. Nevertheless the range and quality of radio and television output is a source of admiration around the world. In the BBC World Service, of course, we have an institution which is acknowledged the world over as synonymous with truth, accuracy and fair comment.

1.5 We read more newspapers than almost any other country; and at both national and local level we have a range and variety found in few other countries. For a country with a stereotype identity for being rather fuddy duddy we seem able to adapt to new technologies from personal computers to mobile phones and digital television and with take-up rates which often outstrip the wildest dreams of manufacturers and service providers.

1.6 So our legacy, our heritage, is of a free and varied press, radio and television of outstanding quality, and the adaptability to take on board new products, new technologies and new services with relative ease. These are national assets which Parliament should protect with care as it approaches the task of providing a new legislative framework for these activities.

1.7 This paper sets out the Liberal Democrats' broad philosophical

approach which will determine our attitude to legislation and to the communications industries it seeks to regulate. We seek to apply the long-standing principles of diversity, community and attention to the needs of all to create a broadcasting structure which has plurality of voice and where no one is able to exploit the power broadcasting brings. The freedom to communicate and to make connections with people who have very different ideas, experiences and perspectives is a freedom that Liberal Democrats cherish. A commitment to freedom of speech has been a theme of liberalism throughout its history, and this is a commitment which remains constant today even though technology and media may have changed beyond recognition. This paper should be read in parallel with the work of the Information and Communications Technology Policy Working Group, which will publish its report in Spring 2003. It is our intention that both papers will provide the basis for a full and informed debate within the Liberal Democrats. Such debate will form the basis of the policies by which we will seek to influence the shape and content of upcoming legislation in a way which protects and enhances choice and freedom in our communications industries.

1.8 In our approach, we make it clear that communications is not just another service or product to be determined by free play of market forces alone. Television, radio and newspapers have a massive impact on our political, social and cultural values, and shape our individual and collective perceptions of events. They impact on our national and regional identities. Access to the media determines the quality and diversity of the information available to underpin an informed democracy. So we reject entirely purely

market force solutions. We will seek to ensure that in broadcasting we retain a strong public service entity built around a strong BBC. In the print media we believe in continuing restrictions on the concentration of ownership in few hands and will fight for clearly defined cross media ownership rules.

1.9 We reserve judgement on how much of the BBC's public service remit should come within the new super regulator, OFCOM. The BBC has a proud record of pioneering new services and new technologies based on a strong research and development tradition. We do not want to see this public service power to innovate ring-fenced by an OFCOM over committed to competition at the price of genuine public service. That does not mean an approach of "our BBC right or wrong"; we reserve the right to be both a candid friend, and, if need be, a fierce critic of the Corporation. Nor do we see public service broadcasting being the preserve or responsibility of the BBC alone. Both Channel Four and ITV in particular have important public service roles to play.

1.10 In spite of this commitment to public service broadcasting accompanied by a wide range of free to air television, we do not wish to fossilise the present structure of broadcasting. On the contrary, we want to see OFCOM bring a genuinely light touch regulation to the commercial sector which will allow adaptability, innovation and change. For that reason we would allow the emergence of a single ITV company provided it gave certain binding commitments on the future of regional production and coverage and the future of ITN. We also argue for an early switchover to digital accompanied by suitable social provisions for the most disadvantaged. We argue for open access on all digital

platforms to increase real competition and consumer choice.

1.11 The approach advocated in this paper in no way deters the genuine entrepreneur from participating in a vibrant and competitive sector. At the same time the public service values which have been so distinctive a part of British broadcasting must be defended

when foot loose global interests see such values as a threat to their capacity to maximize profits. The responsibility now rests firmly with Parliament to ensure a Communications Act and a new BBC Charter which together provide a communications ecology where the best is allowed to flourish to the benefit of our society as a whole.

# *The Modern Context*

2.0.1 In the past few years there have been many changes in the world of broadcasting. Just as satellite broadcasting came in during the 1980s followed by cable, so digital broadcasting came in during the 1990s and interactive services have become increasingly prevalent and sophisticated recently. These technological developments have been accompanied by the emergence of the Internet as a real force in the dissemination of information, and as a source of entertainment.

2.0.2 This has challenged the traditional idea of broadcasting, particularly public service broadcasting, as a way of informing, educating and entertaining. There is no way that these can all be regulated to provide a certain standard of output, and this questions how broadcasting should be approached in the future. The very idea of broadcasting as being a dispersal of information from one source to many receivers is now out of date, digital technology allows an exchange of information between “broadcasters” and their “audience”. Traditionally broadcasting was a method of disseminating information from a “centre” to “people”. Now, however, that concept and the very name “broadcasting” are becoming outmoded. This is the context in which the Government launched their White Paper in December 2000, and published the Communications Bill in May 2002 which is to be considered by a Pre-Legislative Committee of both Houses of Parliament prior to its expected inclusion in the Queen’s Speech of November 2002.

## **2.1 Digital Transmission**

2.1.1 Whilst the majority of people in Britain are still using four to five analogue terrestrial television channels, many are discovering the great benefits of digital transmission, following the earlier benefits of multi-channel transmission. This is why Liberal Democrats support an early but realistic switchover to digital (by 2010), whilst recognising that there are problems which need to be solved. The primary benefit of digital technology is the greater choice which is offered to the consumer. If properly managed and promoted this should result in a much greater diversity of programming, allowing people to receive broadcasting from particular ethnic or cultural groups, for example, as well as a greater choice of traditional broadcasters and programming and more targeted regional programming. In addition to this level of choice, digital transmission enables interactivity so that people can tailor their viewing according to their interests rather than according to what is on at the time. SkyNews, for example, has started to use this function by giving people the option of pressing a button on their remote control to see greater detail on one item, or to watch the headlines even though the channel is actually broadcasting a business report. More and more channels are taking instant polls on the issues of the day or inviting viewers to e-mail or text message their views as a story unfolds.

2.1.2 This is an important development. Broadcasting as a form of communication is not merely to people, but also between people. Broadcasters are able to appeal to larger numbers through a larger number of channels,

more bespoke to the needs of their target audiences. Thus, the BBC has introduced children's channels and BBC4 as part of their digital offering and has applied to launch BBC3 as a youth channel. The free to air channels can stimulate interest in digital and can be used to market subscription channels, as for example between Channel 4, E4 and FilmFour.

2.1.3 The UK was relatively quick to start the move towards digital services, and we remain ahead of the pack in terms of digital television penetration, but we are twenty-first out of thirty large global economies in terms of broadband roll out. These issues are dealt with more fully in the ICT Policy Paper, but it is a vital component of the problem and must not be overlooked. It is about the potential of the UK economy and how the communications revolution affects it. Now that firm distinctions increasingly cannot be drawn between telecommunications, broadcasting and Internet access there is a need to ensure that regulatory structures are in place which are able to cope with the sweeping changes which are occurring. It is equally important that this process of change does not disadvantage those who are most vulnerable.

2.1.4 The Government's official aim is to switch off the analogue transmitters between 2006 and 2010, despite the collapse of ITV Digital. Before this can be done the Government has set three targets which must be met: 99.4% of households must be able to receive the digital signal; 95% of households must have signed up; and signing up must be affordable to all. We believe that these targets are unrealistic in the context of present Government policy. At present, 30% of households have digital access, which is a massive increase from 4% in 1999, but there is a

danger that this take-up may plateau. MORI's Digital Television 2001 survey carried out for the Department for Culture, Media and Sport found that only 55% of households are likely to have digital access by 2006, which is nowhere near to meeting the Government's switchover targets. In addition to this, as much as 15% of households say that they will never get digital television, and the remaining 30% think they might, but not within the next five years.

2.1.5 We understand the desire of the providers of commercial digital services to maximise their market and their market share, and also their desire to bring subscribers into walled gardens (subscription-only areas). However, it is clear that market forces alone will not provide the conditions for digital switchover in the time frame prescribed by the Government. Even the most optimistic forecasts do not see subscriptions to digital services reaching much above 60% by 2010, and those preferring the free to air option will remain high well past 2010.

2.1.6 Thus the free to air offering remains key to the success of the digital revolution. With the demise of ITV Digital the Government should make sure that built in to any solution for the terrestrial digital platform is open access for all free to air channels so that free to air becomes a readily accessible option for those wanting digital television without the expense of subscription services.

2.1.7 The MORI survey also found that just 44% of the population are aware of the plan to switch wholly to digital transmission, and therefore 56% do not feel any need to make a decision at all. Awareness was highest amongst those aged 25-34, and lowest amongst

those aged over 55, and decreased as people got older.

2.1.8 In addition it was found that those who are over 55, in the lower socio-economic groups (C2, D, E), and who do not have access to a computer either at home or at work are least likely to switch to digital transmission. These are the very people who often depend upon radio and television broadcasting as a vital source of information and entertainment and so this has consequences for social exclusion which must be seriously addressed. A third of those who say that they will not switch to digital cite the perceived cost as a major consideration, which shows one of the main misconceptions about digital, namely that it can only be accessed through subscription channels. This is also reflected in the fact that 62% of those who already have access to digital transmission had some kind of pay-TV before, and 88% subscribe to one or more channels. Digital is still linked in many people's minds with subscription channels and not with free-to-air broadcasting, a matter which the Government must address if it is to meet its switchover target.

2.1.9 A group of people with different concerns regarding digital transmission are those living in rural areas, or other areas which do not receive a good digital signal. For these areas the switch off of analogue transmitters could mean the end of good and reliable reception. For some communities only physical connections to a transmitter will give a comparable or better service than the current analogue signal. Access must be the key objective, however, and all other considerations must support this.

2.1.10 There is clearly a need for a much more effective public information campaign so that people are made aware of the situation regarding switchover,

free to air options and other factors so that they are able to make informed decisions about what they want to do. This must include making information packs available in a wide range of languages and formats, such as audiotapes, Braille, and large print. Where radio and television are used in the campaign it will be necessary to ensure that broadcasters catering for particular ethnic minority communities or other groups are involved so that everyone has access to the information. Problems of rural and remote transmission could be solved in part by a gradual roll out of digital transmission so that it happens region by region, giving people plenty of warning that digital is coming and allowing government and broadcasters to focus on a region at a time. The question of the strength of the digital signal should also be addressed.

2.1.11 In addition to this campaign, which will aim to reassure people about digital and persuade them of the benefits of changing, there may need to be a programme for providing a free set-top digital box to those who are unable to switch, either because of expense or geography. The necessity for this will depend in large part upon the success of the information campaign, but there will be some people who are unable to switch. This would only provide the free-to-air digital channels, but it would ensure that those who are most vulnerable are not marginalised further. Just as Sky converted all its analogue satellite customers to digital satellite without charge, the same could now be done for terrestrial digital. The cost of this would be much less than it may appear, because demand for digital reception will have driven down the price of the technology, and a box which receives only the free-to-air channels can easily be mass-produced cheaply. Such help would also be

necessary for those who cannot receive the digital signal, and solutions such as free ADSL telephone wires for those who are within 3km of a telephone exchange, or free satellite dishes only able to receive the free-to-air channels must be considered.

2.1.12 What is clear is that despite some of the problems with switchover, leaving it for as long as it takes people to reach the Government's targets without persuasion or assistance is not an option. Terrestrial broadcasters have been experiencing the expense of double transmission costs for some years already, and this burden will not be lessened until analogue transmission is switched off. There is the added problem that the BBC has predicted that the analogue network will be in need of maintenance by 2006 or 2007. If switchover is still planned for 2010 at the latest, clearly there will seem to be little point to undertaking more than just "sticking plaster" maintenance. However, if the target date for switchover has slipped, there will be considerable uncertainty, and quite possibly the analogue network will cease to provide the service we expect. This would be unacceptable, and highlights the need to have a realistic target date, paired with a realistic process for the achievement of that target. If the other measures we recommend are taken (large scale promotion of free to air, free set-top boxes, stronger digital signal etc.), we still believe that the 2006-2010 time frame is achievable. This leaves time for the necessary information campaigns and other support measures, but gives consumers and broadcasters alike the certainty they need to plan.

2.1.13 Switchover to digital transmission of television is therefore inevitable, but the switchover of radio transmission remains more

questionable. Radio performs a unique and vital function in broadcasting, particularly at a local level, and this must be protected. Many commercial stations joined together during the 2001 General Election to devote £1m worth of advertising time to the Use Your Voice campaign to persuade people to vote. There are many similar examples of local radio stations involved in local campaigns who speak out for local people on local issues. Therefore digital switchover to radio must be carefully managed to protect these small local stations and ensure that their viability is not jeopardised.

2.1.14 Greater choice of channels and better reception will be advantages for the consumer through digital radio as much as through digital television, and although there is not the same need to be setting deadlines, a switchover to digital radio should be a policy objective. The Commercial Radio Companies Association (CRCA) is committed to facilitating digital switchover for radio, and has helped to establish the Digital Radio Development Bureau, with the BBC, which presents a unified message about digital broadcasting to all those involved in radio. Whilst the CRCA does not predict any imminent switchover, it has stated that it expects most radio listening will be to terrestrial digital services by 2015.

2.1.15 The switchover to digital transmission is more complicated than merely switching off one type of technology in favour of another. It is a part of a much wider process of the move from analogue forms of media to digital forms. Digital media is easier to manipulate, tailor, reproduce, organise and transport than traditional analogue media. In particular, digital makes it possible to adapt media content so that it can be delivered to people across a

variety of different platforms. This process is known as convergence, and means that digital content will be accessed by people using a variety of electronic devices and communication systems. Primarily we are concerned with digital satellite, digital cable and digital terrestrial systems. However, convergence means that this will also include accessing digital content through such things as 3rd generation mobile phones, personal digital assistants (PDAs), interactive games systems, and of course through personal computers via the Internet. Media and telecommunications companies have consolidated or formed alliances to put themselves in a better position to respond to the challenges of the new digital media. Regulatory convergence is needed to keep pace with technological and industry convergence, leading to the proposals for a single umbrella regulator for the whole of the communications industry, OFCOM.

## **2.2 Other Technologies**

2.2.1 The change to digital transmission is just one part of the wider changes occurring in communications at present. Both BBC and ITV have good websites which allow people to find out more about their favourite television programmes, enabling the Internet to promote use of broadcasting in its more traditional form. The BBC has responded particularly well to this new challenge, with an excellent online news site which is one of the leaders in its field. This is a prime example of how the ethos of public service broadcasting can be transferred successfully to a new medium. For many people the quickest way to find out what is happening in the world is to look it up on the Internet, and surfing the Internet is also a significant and increasing source of entertainment. This will become more

and more true in the future as new devices allow people to access the Internet where and when they like. The BBC is confident that the growth in the number of channels available on television and the increase in the use of the Internet will not affect their market share, as the whole of the BBC will keep the same market share, even if this audience is spread between a greater number of outlets.

2.2.2 The new digital technologies can have other advantages, though. They can combine with the number of channels available through digital transmission to create more openings for those who wish to broadcast their own material. This has become common on the Internet, where any organisation can have its own website to publicise its views or products. Many ethnic and cultural groups have found this an invaluable way of communicating with people from the same background across the world. The Internet is also regularly used by people with the same interests to swap information and ideas. The potential of the Internet for this transfer of information is unrivalled at the moment, but the increase in the number of television and radio channels which will be brought about through digital transmission will also help those who wish to find a platform for their own material.

2.2.3 The entry costs for groups and individuals wishing to make video and audio programming has been significantly reduced because of these developments. For example, the combination of digital video cameras and computer based editing packages make it possible for people to film and edit broadcast-quality programmes in a way that requires only a modest outlay of resources and a relatively low level of technical skill. This reduction in the barriers to entering the broadcasting

world should mean a more competitive market place, but it also opens up interesting possibilities for extending access to the media to more individuals, organisations, and communities. We can use these new tools to give a voice to the excluded, encourage cultural diversity and democratic debate, and help groups and individuals to develop skills and confidence. To encourage this we would give OFCOM the power to take action to ensure that community groups, voluntary organisations, and other non-traditional broadcasters have appropriate access to broadcasting platforms. This gives an opportunity for democratic engagement and education which has not been seen before, and Liberal Democrats are keen to encourage this. This solves some of the problems which were present under purely analogue transmission, but raises further questions of regulation and safeguards.

2.2.4 Policing the Internet is already a very difficult issue, and will become much more so. Whilst it is virtually

impossible to police quality when people can post or download anything they like, there are issues of competition and safety which should be addressed. These issues are more fully tackled in the ICT Policy Paper already mentioned.

2.2.5 Liberal Democrats therefore wish to support the new technologies, and recognise that these are vital and growing forms of communication and information. We particularly want to support special interest groups in using the Internet to communicate with like-minded people and educate others, and see the value in technology which makes it easier for people to make video and audio programming. This is very appropriate to local, regional and minority language broadcasting which are all things we wish to promote. This will ultimately lead to the enrichment of British broadcasting life, and therefore we believe that the Government should encourage people to use this technology, and should improve access to training and facilities.

# Public Service Broadcasting

3.1 Public service broadcasting has been a staple part of television and radio in this country since broadcasting was invented, initially in the form of the BBC. A poll carried out in December 1999 asked people to name existing British institutions which they expected still to be around at the turn of the next century. 51% named the monarchy, but over 70% named the BBC. This reflects a level of public confidence and affection concerning the BBC which should not be overlooked.

3.2 From the original two national BBC radio stations have grown five national radio stations, one international radio station, a plethora of local stations, two terrestrial television channels, five digital channels and BBC Online. In addition to this, ITV and Channel 4 both retain their public service remit and are subject to certain public service regulations in return for free spectrum. This level of choice is fairly extensive, and is set to become even more so after switchover as the number of digital channels grows and the BBC works towards its aim of four main channels. It is crucial that through this process of change the BBC is able to stick to its original remit; to inform, educate and entertain. This should be encouraged and supported as the basis of our public service broadcasting, but we do need to recognise the problems that this brings.

3.3. Before these issues can be addressed, however, we need to find a definition of public service broadcasting. All too often, this is taken as being whatever the BBC, or at

best the BBC and Channel 4, say it is. Rather than this we need a set of objective criteria, against which any public service broadcaster, including the BBC, can be measured. We believe that a public service broadcaster should:

- offer near 100% access across the country, meaning coverage and being free-to-air;
- have a good regional presence;
- have a high integrity of news reporting, with national and international news covered impartially;
- cover all genres to satisfy minority interests as well as mainstream interests;
- not be beholden to commercial interests or private funding;
- have public accountability;
- be subject to independent auditing;
- have a strong educational element.

3.4 That the BBC is the only broadcaster to receive public money in the form of the licence fee but is not the only broadcaster to have a public service remit or to fulfil a public service function is a source of some controversy. The other terrestrial television broadcasters – ITV, Channel 4 and Channel 5 – are all subject to public service regulations even though their income is from advertising, and the CRCA has argued that commercial radio stations provide a public service, too, even though they do not have a public service remit. Commercial radio currently has 77% of the total local radio listening share, and since half of

all commercial radio stations serve communities of under 300,000 and a fifth serve communities of fewer than 100,000, for many people commercial radio *is* local community radio. The 2001 “Use Your Voice” campaign is another example of this public service role being fulfilled. This is a clear area where commercial stations are taking on some public service aspects voluntarily, and show that wholly commercial funding does not have to result in a disregard for the public service uses to which broadcasting can be put.

3.5 Radio is also an invaluable way of local people and communities being able to create broadcasting which reflects local or cultural interests. The Radio Authority is currently piloting Access Radio, looking at non-commercial approaches to radio, which can reflect the concerns of a community. Examples are Radio AWAZ in Glasgow which broadcasts in Urdu, Punjabi and English to the Asian communities in central Glasgow, Community Radio Training in Birmingham which reflects the culture, values and aspirations of the Afro-Caribbean community, and Takeover Radio in Leicester, which is a children’s radio station. These, and many others like them, cater for the needs of the area they serve in a way that television has not, and this contribution from commercial stations needs to be recognised.

3.6 The Government has proposed to address these wider terms of public service broadcasting through OFCOM by creating a three-tier regulation system. The first tier would be applicable to all broadcasters and would deal with basic issues of content and advertising. The second and third tiers would apply to all public service broadcasters and in the second tier would deal with those issues which are

easily quantifiable, with the third tier looking at qualitative issues. This will maintain the break between regulation styles for satellite or cable broadcasters and terrestrial broadcasters, and continue the regulation of all terrestrial broadcasters as public service broadcasters.

3.7 In order to meet the criteria in 3.3 fully, the BBC must be subject to some change. Liberal Democrats would increase accountability by making the BBC subject to the National Audit Office and the Public Accounts Committee. This would be paired with encouragement for the BBC to make more from its commercial operations than it has done in the past, partly through the removal of the borrowing limit. At present the whole of the BBC is counted as part of the public sector borrowing requirement, but Liberal Democrats would allow the commercial operations to become stand alone companies, which could go bankrupt, but which in return would have a separate borrowing limit.

3.8 As part of this drive to make the BBC more accountable to the public the Charter Review in 2006 must result in a BBC which is both more transparent and more accountable, in terms of appointments and decision-making, than is the case today. The way Governors are appointed and how they conduct their business must be among the issues for consideration as part of any radical review of how the BBC is run and how it justifies its stewardship to the public at large.

3.9 Having established the principle of public service broadcasting, and with broad support for the BBC in its current form provided it changes to meet the criteria in 3.3, the issue of how to fund public service broadcasting becomes of great importance. One of the points of

public service broadcasting in a world where there is near infinite choice of channels and output is to provide consistent programming of a type and standard which the market does not otherwise provide. The question is whether the BBC is doing this at the moment. This is also based on an assumption that there are certain types of programming which are desirable and to an extent popular, but which the market would not support without encouragement. As the number of commercial channels grows, and as people become more used to watching channels other than the traditional terrestrial ones, this may become less and less true and it is important that this assumption is not retained without reason.

3.10 What we do not accept is a concept of public service broadcasting as occupying only areas of market failure. Public service broadcasting also has an important role in setting standards and benchmarks of quality which by their very presence challenges the market to emulate.

3.11 Possibly, audience ratings figures should not matter to the BBC, because unlike ITV, Channel 4, Sky or anyone else, ratings do not affect the BBC's income. There are two counter arguments to this. One is that caring about ratings helps to keep the BBC on its toes, and so the BBC should consider them as an important guard against complacency. The other is that ratings *should* affect the BBC's income. The BBC is funded out of the licence fee, which is paid by everyone who owns a television. That means that the BBC has an obligation not only to broadcast programmes of quality but also programmes which are popular, otherwise many of those who pay the licence fee will not benefit from that payment because they may never watch

BBC programmes. This would naturally lead to a decline in support for the licence fee itself. This can sometimes seem to be a circle that cannot be squared, and this is one of the central issues surrounding public service broadcasting, now and previously. There is much to be said, also, for a channel which provides a genuine mix of programmes. That way, viewers are drawn in to see programmes which they might not have selected but which broaden their horizons. A channel which is all news will not achieve this just as much as a channel which is all comedies or gardening programmes will not.

3.12 However there is an important place for high quality material which has limited appeal. Radio 3 is a good example of one of the jewels in the BBC crown, and yet it is very expensive and has a very small body of listeners. However, the strength of the BBC is that it can afford to support a station such as this because its income is secure. The key here is that different types of funding support different types of programming. 7 million people stayed up until 2am to watch Steve Redgrave win his fifth Olympic gold medal in September 2000, but the BBC carried the Olympic programming because ITV felt that it would not get the advertising to support broadcasting from Australia in the middle of the British night. This shows clearly the importance of public service broadcasting, and demonstrates why a protected source of income is so vital to the future of the BBC.

3.13 However, it is not simply enough to let the BBC deal with quality and ITV or Sky with popularity, partly because this does not justify the licence fee and partly because in a multi-channel future this would become increasingly unsatisfactory. It is

important, therefore, that a broad and non-judgmental view is taken of what constitutes “quality”. Whilst some people may consider that quality programming should involve authentic costume dramas or well-researched news and current affairs programmes, others may define quality programming as involving sitcoms, soap operas or quiz shows. This is largely a matter of taste, but a good public service broadcaster has a place in providing all of these genres. There is room in a week of programming for costume drama, for news and current affairs, for sitcoms, soap operas, quiz shows and much more. What is important is that the BBC provides the whole range of informative, educational and entertaining programming to the highest standards. In an ideal world this would mean that the public service broadcaster would provide popular and quality programmes. However, people are free to choose the channel they watch and the station they listen to, and whilst there is an important place for a public service broadcaster, the appropriate way of giving financial support for public service broadcasters will be a cause of continuing public debate.

3.14 It is true that the licence fee is still comparatively cheap compared with subscription television, or even the weekly cost of purchasing a daily or Sunday newspaper every day. Many initiatives have been taken in recent years to minimise its lump sum impact. The “poll tax” jibe has usually been made by those who seek no good for the BBC and would prefer to see it emasculated by underfunding. We prefer to see it as a venture capital fund for the whole of British broadcasting, as was said by Tessa Jowell when introducing the draft Communications Bill in May 2002.

3.15 We do not see it as a solution to BBC funding that it should accept advertising. Such solutions tend to become one-way streets with the advertising funding gradually overwhelming the licence fee and the public service content. Slippery slope is the term most often associated with this solution. The Charter Review will undoubtedly initiate another fundamental debate about the nature of the licence fee, and technological change and the levels of financing required mean that the debate will continue.

3.16 Nevertheless we recognise that the BBC needs to increase its funding base. This is why Liberal Democrats are so keen for the BBC to use its commercial operations. The money that is raised is put straight back into the up-front investment in programmes, and so there is no question of the BBC making a direct profit. In the past the BBC has been far too slow to make the most of the opportunities it has to increase its revenue, but now there are plans to double the amount raised from commercial operations from £100m to £200m by 2006. If these are exploited to their full potential it may be possible to take between 5% and 10% of the licence fee to give to other broadcasters for public service standard programmes, but this will only be viable provided the quality of BBC programming does not suffer as a result. At the moment the BBC is too bureaucratic and could be made more efficient, but the standard of output must always be paramount.

3.17 An example of how a public service standard channel can thrive without public money is Channel 4, which is an engine of cross-subsidy and has thrived in a common market place. This allows them the freedom to buy relatively cheap, high quality, American programming to release money for more

expensive public service projects. Channel 4 manages to be innovative and daring enough to compete with the BBC for content, particularly in things like its coverage of the Kumbh Mela festival in India, which cost £1m and was a cultural and broadcasting success even though it did not cover its costs, whilst it also competes successfully in the market. Likewise, in the summer of 2001 Channel 4 arranged cricket courses for 26,000 children across the country, partly to promote its coverage of the summer county and international games, but also as a more philanthropic exercise. A purely commercial channel would not have been willing to risk this outlay. However, Channel 4 can also provide “rude competition for big business”, as Michael Jackson the Chief Executive of Channel 4 has put it. Channel 4 managed to beat Sky to the rights to *Friends*, and continues to compete with them for racing coverage. This is a healthy arrangement that benefits the BBC and commercial operators, and is a good model for

future relationships between public service and commercial channels. That is why Liberal Democrats will oppose the privatisation of Channel 4 and S4C, and will seek to protect the current status of the channel.

3.18 The origins of Channel 4 could act as a guide to how government can be involved in setting up new broadcasters in the future, and encouraging them in a unique remit, but can then pull back again once that broadcaster is established. This could do a lot to increase the variety of public service broadcasting, and could allow a great many more groups to receive short-term government support to set up a new radio or television station to cater for their needs and interests. Any potential broadcaster looking for this type of support would need to meet the criteria laid down in 3.3, but new and creative ways of doing this would be particularly encouraged.

# *Changes in Regulation*

4.0.1 Liberal Democrats in Parliament supported the creation of OFCOM whilst reserving judgement on its detailed powers and structure, which are still to be spelled out. Specific powers await the detail contained in the Communications Bill, and so we are reluctant to see all the regulatory functions of the BBC's Board of Governors passed "pig in a poke" fashion to OFCOM. We would prefer to see OFCOM up and running with its new powers and functions, allow Parliament to decide on the new Charter responsibilities of the BBC and then see how best to marry the two in a way which best protects the public service remit of the BBC.

4.0.2 Technological convergence and the many changes in broadcasting have resulted in a need for changes in regulation. Such changes need to keep an investment friendly aspect to regulation. In the light of the rolling changes to broadcasting at the moment, we need to encourage a light-touch regulatory environment which encourages investment in innovation and entrepreneurial risk taking. This is not wholly applicable where public service broadcasting is concerned, and we need to ensure that public service broadcasters are protected whilst for commercial broadcasters competition may be the fairest and most effective form of regulation. This is where the new umbrella regulator, OFCOM, must be moulded to meet the needs of the time. It is also vital that regulation takes account of the regions of the UK, specifically through ensuring that OFCOM has Welsh, Scottish and Northern Irish representatives on the appropriate committees, appointed in consultation with the devolved administrations.

4.0.3 Most adults, particularly parents, are very anxious to ensure that the content of programmes which might be seen or heard by children is carefully regulated, but they also want the freedom of choice that very light touch regulation offers them for the programmes they want to listen to or watch. This is a balance which is very difficult to strike, but protection for children and reasonable freedom for adults must be the guiding principles of regulation. There also needs to be a balance between light touch regulation which allows the market to flourish but which also leads to unadventurous programming because no channel is prepared to take a risk in case its audience share drops, and heavy regulation which requires the highest standards of production, regional investment and original creation, but which does not allow the market to play a full enough part for channels to survive.

## **4.1 Content Regulation**

4.1.1 Many commercial broadcasters are keen to see light touch regulation in all areas, but particularly in terms of content. The Commercial Radio Companies Association, for example, claims that commercial radio benefited hugely from deregulation in the 1990s, but is concerned that those regulations are now out of date and are being replaced with over prescriptive codes which do not allow broadcasters enough freedom to compete. The same concerns are voiced by television broadcasters, who see heavy regulation as a threat to their economic and competitive viability. The CRCA is also concerned that heavy regulation will cause OFCOM to become slow and unworkable, rather than providing the comprehensive umbrella

regulation which it is being established to do. This highlights the need to consider economic practicality whilst never losing sight of the need to create high standard broadcasting which takes account of cultural and regional needs.

4.1.2 This difficulty could be increased as the content regulation of all broadcasters other than the BBC is managed by OFCOM, and the effect that one regulator, dealing with economic, technical and content issues, will have on content. There are those who believe that content cannot be market driven successfully. Rather than encouraging diversity of programming, a very competitive market place can cause monochrome programming because broadcasters are unwilling to take risks in case they result in a drop in audience ratings. This is an area where public service broadcasters have traditionally played a role in giving purely commercial broadcasters a “gold standard” with which to compete.

4.1.3 Yet all too often regulation is seen solely in terms of ownership and technology. To counter-balance this we welcome the proposal in the Communications Bill to create a Content Commission within OFCOM which would play an important part in balancing the needs of content with other forms of regulation. It could even have a remit which involves encouraging the current commercial public service broadcasters to offer the type of niche broadcasting which will otherwise be left to the BBC.

4.1.4 This Content Commission must involve as much accountability to the public as possible. The Government’s proposals for a Consumer Panel acknowledge the need for this. We believe that this could be achieved through a citizens’ jury or viewers’ panel. These should be made up of a

representative cross-section of society, although how this is achieved is a difficult question. The aim must be to find a panel which is balanced in terms of age, gender, and cultural background. Added to this needs to be a strong focus on finding people from across the country, with no bias towards any particular area except when reviewing regional programming. It is important to ensure that broadcasters are still able to drive the process of commissioning and producing programmes in line with their knowledge of the industry, whilst being required to take the views of the citizens’ jury into account in terms of quality and suitability. This citizens’ jury should report to the Content Commission.

4.1.5 The Content Commission could also have a role in ensuring that broadcasters put a certain amount of their revenue each year into programme development and production. The French broadcaster, Canal Plus, for example, has to obey broadcasting regulations requiring it to invest 20% of its turnover in indigenous EU film, drama or documentary. This has led Canal Plus to be a real player in the global broadcasting market with one of the strongest film libraries in the world. This shows that content legislation can be a very positive thing, whilst performing a function which the market cannot deliver.

4.1.6 This Content Commission could also be responsible for addressing issues such as the amount and standard of children’s programming and the accessibility of programming for people with disabilities. These are vital cultural aspects of broadcasting and should not be overlooked by any public service broadcaster. Added to these issues it will be the job of the Content Commission to oversee the watershed, to police issues of decency, privacy or intrusion, to have an overall view of the balance across all

outputs and consider such issues as the listing of sporting events.

4.1.7 The Content Commission could also address areas of genuine public concern such as the impact of violence on television and the availability of sexually explicit and pornographic programmes on both specialist and mainstream channels.

4.1.8 Religious broadcasting in a multi-cultural, multi-faith nation will also need reviewing within the context of pressure from religious channels.

4.1.9 This sectoral regulation, separating content, economic and technical regulation, will also be important for the regions. This will enable the regulator to encourage regional programming removed from the pressures of economic considerations. This would help to ensure the continuance of plurality of voice, and would thus give consumers greater choice.

4.1.10 The Content Commission must also take account of the quality and bias of news reporting. As there are more and more broadcasters taking advantage of the digital revolution to establish new channels, the quality of news will be an ever more important issue. It is vital that the BBC is not the only place where it is possible to find quality unbiased news reporting, and there need to be strict regulations to enforce this. This falls clearly within the scope of the Content Commission and whilst it has implications for economic regulation and ownership, it is important that it is viewed from a content perspective, with the emphasis on providing a high standard of independent news reporting.

4.1.11 The Content Commission would take responsibility for the regulation of radio content from the present Radio

Authority, but Liberal Democrats support the Radio Authority's goals of increasing access, information, plurality and diversity. The current rules regarding taste and decency are also very strong, and Liberal Democrats would want to see the Content Commission work to enforce these.

4.1.12 However, some broadcasters, such as Sky, see content regulation as an economic matter, since economic considerations have a large impact on the programmes broadcasters can afford to make and the risks they are prepared to take. This leads Sky to predict that content regulation will not be dwarfed in OFCOM, and would not need a separate regulator. However, Sky is in a very different position from the terrestrial broadcasters, in that it has no obligations to anyone other than its subscribers. Therefore if the subscribers indicate that they want to watch programmes which are not original to the channel (like c.60% of the output on SkyOne) or which do not have a British or European base (like c.80% of the output on the Sky film channels), the only obligation Sky has is to meet those demands. This cannot be applied more widely to the free-to-air terrestrial broadcasters, because at present they all have an element of public service broadcasting, with its consequent privileges and obligations. Only if this public service status was later removed from some of these channels, most notably ITV and Channel 5, could content on these channels be seen in the same light as on Sky. On issues such as these, therefore, the Content Commission would take into account the three tiers of regulation, so that different broadcasters would be treated appropriately.

4.1.13 It is this view of content as an economic issue which is so potentially damaging to the BBC and to the concept of public service broadcasting where the

public interest and not profit is the paramount consideration. The type of light touch regulation which OFCOM aims to provide would be inappropriate for the BBC because the BBC cannot be regulated after a programme has been broadcast because of the use of public money. Likewise, only elected representatives in Parliament, to whom the governors are accountable, should be able to decide what the licence fee should finance. It is for this reason that Liberal Democrats believe that the third tier of BBC regulation should remain in the hands of the BBC governors, at least until the BBC Charter is renewed in 2006. At that point, OFCOM will have been established for two or three years, and it will be possible to see how it is functioning and how the BBC could fit in to it. Equally, as discussions are held about how the BBC should be shaped for the future, it will become clearer whether the governors are out-dated and whether OFCOM is a suitable body to be in charge of the BBC. The BBC is too important to British culture and society to be subsumed into a new mass regulator until the workings of that regulator have been examined in practice. This will have been possible by the time of the Charter renewal in 2006, which will provide a suitable opportunity to re-think the regulation of the BBC.

## **4.2 Technical Regulation**

4.2.1 Important as content regulation is to the public watching programmes on television or listening to them on the radio, the technology which gets those programmes to them can affect the content, and is in need of some regulation.

4.2.2 Much as Sky is a content provider, it is also a platform provider. The Sky satellite carries about 240 channels, of which about 100 are retailed by Sky and just 22 are owned by Sky.

Those which Sky neither retails nor owns pay a fee to Sky for use of the satellite, a fee for encryption which protects copyright and a fee to be put onto the electronic guide, so that viewers know where to find the channel. The digital terrestrial channels are examples of channels which Sky does not retail but which are offered through a SkyDigital package. To ensure platform neutrality, so that the technology does not get in the way of what people are able to watch, this sharing of platform is important, but some broadcasters find the costs involved in using the Sky satellite are too high. Therefore Liberal Democrats believe the Office of Fair Trading should adjudicate on the terms and conditions of access to platforms, particularly encryption fees and electronic guide fees, to determine whether Sky is charging a fair price for the services it provides, or whether too much is being done to try to force smaller broadcasters out of the market. This conflict between the functions of a gatekeeper, a platform provider and a content provider is also found in cable companies such as Telewest or Ntl, and is an issue which must be resolved before new technologies cause this to be a bigger problem than it is at present. As a general rule, Liberal Democrats support the greatest possible platform neutrality and the separation of the roles of platform and content provider.

4.2.3 The demise of ITV Digital offers the Government the opportunity to re-position the digital terrestrial platform as the main launch pad for free to air services as well as a gateway for other programme providers.

4.2.4 Another way of encouraging people to become more involved in broadcasting and communications is to encourage community cable schemes. This can be an important link in community development and can ensure

that more people receive information about their local areas and are connected to local democracy and local issues. Government needs to be proactive in this, and work to encourage such local schemes in order that this can form a strong part of the communications landscape in the future.

4.2.5 A large part of regulation in this area is concerned with the regulation of the telecoms industry, and as the two forms of communication converge regulation of telecoms will become more and more relevant to broadcasting. Telecoms companies are now trying to move into the world of broadcasting, and broadcasters are entering the world of the Internet and mobile phones. Whilst the traditional separation of telecommunications and broadcasting was once very appropriate, as we move away from the concept of “broadcasting” from the centre towards the concept of people communicating with each other, the connection between telecoms and broadcasting becomes more obvious. The technologies which are used to provide telecoms services and broadcasting services are converging and will continue to converge so that a television is far more than just a box in a corner through which information is received passively. This creates the need for a single regulator, OFCOM. It is clearly important that OFCOM is only an umbrella regulator, however, and does not seek to regulate all the areas under its authority in the same way, as this would simply not be appropriate.

## **4.3 Cross-Media Ownership**

4.3.1 The basis of our approach is that the areas covered by the Communications Bill are distinct from other commercial activities. What is provided goes to the heart of a nation’s

cultural identity, its democratic structures and fundamental freedoms. For this reason we welcome the retention of cross-media ownership restrictions applying between ITV and national newspapers.

4.3.2 This regulation cannot always be provided by the market, particularly when large-scale globally operating media companies can enter markets with scant regard for civic or cultural responsibilities. The best defence of democratic freedoms is diversity of choice in both print and electronic media. Such diversity can only be guaranteed by diversity of ownership. That is why Liberal Democrats will fight to ensure that strong cross-media ownership rules apply across the print and electronic media. Such clear and explicit rules, underpinned by a strong and independent public service sector of broadcasting, are the best protection against either our democracy or our culture, national or regional, being overwhelmed by global conglomerates. In this context, we view with deep concern the proposed relaxation in ownership rules which would permit the takeover of ITV and Channel 5 by global conglomerates.

4.3.3 Broadcasting needs to be regulated in a way which takes into account competition laws but which also serves the public interest regardless of the self-interest of any of the companies involved, and which sees plurality as the prime aim. This means that whatever measures are judged appropriate to protect plurality of voice should be put into primary legislation so that they are clear and can be easily understood by all. Companies who wish to extend their power and influence will look to exploit all possible loopholes, and so all legislation regarding this area must be as clear and as firm as possible. Plurality and diversity are the key factors, and all

legislation must support these, protecting programming in all genres, not just news and current affairs. Broadcasting influences how its audience sees life and society in many ways and the cultural diversity and democracy of this should be broadened, not threatened.

4.3.4 However, there are occasions when diversity of ownership within one organisation does not promote plurality and diversity, but just creates an unworkable company. This is increasingly the case with ITV. At the moment there is a limit on any one company owning more than 15% of the ITV audience share. There are currently proposals to lift this limit on the basis of creating a freely competitive market, but this endangers the diversity of voice and regional production which is currently in ITV's remit. Therefore, Liberal Democrats would be prepared to see this limit lifted on the condition that strict regional production targets are met by the remaining companies, and that ITN is subsumed wholly into ITV and is not bought by any other company. This would not affect the regional licensing system, whereby each region holds an individual licence, if ITV does not meet the requirements of that region the licence can be taken away. This proposal is to allow the current ITV companies to form a single ITV company through the natural processes of merger and take-over, but to keep the licensing system so that if ITV does not serve a region adequately that licence can be offered to bids, for example from the many other digital, cable or satellite broadcasters which a digital world will encourage. This could result in a better fulfilment of ITV's remit, because this works with the market as far as possible rather than trying to stifle it.

4.3.5 The dream of a network of local commercial radio stations broadcasting to small geographical areas in ways

which reflect the needs and interests of specific communities is threatened by the commercial realities. In many cases stations join together to pool their output for a lot of the time, sometimes only broadcasting to their area alone for very short news or travel bulletins. This is one area where competition law alone is inadequate. At present there is a points system whereby each station carries a number of points, of which no one company may have more than a certain number, to prevent takeovers. However, this is not working to ensure plurality and diversity at present. The Radio Authority has proposed abolishing the points system, therefore, and establishing regulations which ensure that all localities have three separate commercial radio stations plus the BBC, without restricting the market beyond this.

4.3.6 At present, the three national radio licences are awarded to the highest cash bidders. In 2002 these are Classic, Virgin and talkSPORT, so representing a fairly diverse set of tastes and interests. However, there is nothing in the regulations to guarantee that this will be the case, and Liberal Democrats would be keen to see diversity of output considered when awarding these licences so that the possibility of three stations with much the same output and target audience is avoided. Local radio licences already take into account quality and diversity as well as financial robustness and this should be replicated. There could also be greater use made of Restricted Service Licences (RSLs). These are currently given on a short-term basis to stations which are established to cover particular events such as a religious festival, or on a geographically limited basis to stations in hospitals, universities or army barracks. RSLs are a good way of bringing more people into broadcasting when they might not have the money, time or expertise to operate permanently, and can provide

communities with a focal point at important times. For example, during Ramadan in 2001 a record 22 RSLs were issued so that Muslim communities could use radio as a way of marking their celebrations.

4.3.7 The final economic issue which needs to be addressed is that of advertising and sponsorship. Advertising is the major source of revenue for all terrestrial television broadcasters other than the BBC and all commercial radio stations, and plays a large part in the funding of subscription television channels such as Sky. Liberal Democrats are keen to ensure that the wishes of an

advertising or sponsorship interest never interfere with editorial decisions or jeopardise independence. This is undoubtedly an economic issue, therefore, but should not be treated purely as such. However, Liberal Democrats believe that in the main the advertising industry has provided a model for good self-regulation through the Advertising Standards Authority and that whilst it continues to work effectively self-regulation should remain the basis of control within advertising. We express no such confidence in the Press Complaints Commission, which should be the subject of an early review by OFCOM.

*This paper has been approved for debate by the Federal Conference by the Federal Policy Committee under the terms of Article 5.4 of the Federal Constitution. Within the policy-making procedure of the Liberal Democrats, the Federal Party determines the policy of the Party in those areas which might reasonably be expected to fall within the remit of the federal institutions in the context of a federal United Kingdom. The Party in England, the Scottish Liberal Democrats and the Welsh Liberal Democrats determine the policy of the Party on all other issues, except that any or all of them may confer this power upon the Federal Party in any specified area or areas. If approved by Conference, this paper will form the policy of the Federal Party, except in appropriate areas where any national party policy would take precedence.*

*Many of the policy papers published by the Liberal Democrats imply modifications to existing government public expenditure priorities. We recognise that it may not be possible to achieve all these proposals in the lifetime of one Parliament. We intend to publish a costings programme, setting out our priorities across all policy areas, closer to the next general election.*

## **Working Group on Broadcasting**

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*Note: Membership of the Working Group should not be taken to indicate that every member necessarily agrees with every statement or every proposal in this Paper.*

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