PARLIAMENTARY DEBATES

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Public Bill Committee

MEDIA BILL

Second Sitting

Tuesday 5 December 2023

(Afternoon)

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Saturday 9 December 2023

The Committee consisted of the following Members:

Chairs: † Judith Cummins, Martin Vickers

† Baynes, Simon *(Clwyd South)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Bradshaw, Mr Ben *(Exeter)* (Lab)
† Butler, Rob *(Aylesbury)* (Con)
† Carter, Andy *(Warrington South)* (Con)
† Collins, Damian *(Folkestone and Hythe)* (Con)
† Efford, Clive *(Eltham)* (Lab)
† Foster, Kevin *(Torbay)* (Con)
† Green, Chris *(Bolton West)* (Con)
Hunt, Tom *(Ipswich)* (Con)
† Owen, Sarah *(Luton North)* (Lab)
† Peacock, Stephanie *(Barnsley East)* (Lab)
† Tuckwell, Steve *(Uxbridge and South Ruislip)* (Con)
† Western, Andrew *(Stretford and Urmston)* (Lab)
† Whittingdale, Sir John *(Minister for Media, Tourism and Creative Industries)*
† Williams, Hywel *(Arfon)* (PC)
† Wood, Mike *(Lord Commissioner of His Majesty's Treasury)*

Huw Yardley, Kevin Candy, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 5 December 2023

(*Afternoon*)

[Judith Cummins *in the Chair*]

Media Bill

Clause 3

Public service remits of licensed providers

Amendment proposed (this day): 35, in clause 3, page 7, line 15, at end insert—

"(c) which is broadcast via UHF frequencies that can be received by a minimum of 98.5% of the population of the United Kingdom."—*(Kirsty Blackman.)*

This amendment would amend the definition of public service for Channel 3 services and Channel 5 to include an obligation to broadcast via digital terrestrial television.

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 36, in clause 3, page 7, line 32, at end insert—

"(d) which is broadcast via UHF frequencies that can be received by a minimum of 98.5% of the population of the United Kingdom."

This amendment would amend the definition of public service for Channel 4 to include an obligation to broadcast via digital terrestrial television.

Amendment 37, in clause 15, page 17, line 35, at end insert—

"(c) after paragraph (c), insert—

'(d) provide for the broadcast of programmes for or on behalf of a Channel 3 licensee using the MPEG-2 or MPEG-4 digital video broadcasting standard via UHF frequencies that can be received by a minimum of 98.5% of the population of the United Kingdom.'"

This amendment would amend the definition of public service for Channel 3 licensees to include an obligation to broadcast via digital terrestrial television.

Kirsty Blackman (Aberdeen North) (SNP): I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Minister for Media, Tourism and Creative Industries (Sir John Whittingdale): I beg to move amendment 1, in clause 3, page 7, line 33, at end insert—

"(5A) In this section, a reference to making available audiovisual content, in relation to a licensed public service channel, is a reference to the provider of that channel making available audiovisual content."

This amendment describes how audiovisual content contributing to the fulfilment of the public service remit for a licensed public service channel is provided.

The Chair: With this it will be convenient to discuss clause stand part.

Sir John Whittingdale: I welcome you to the Chair, Mrs Cummins. Clause 3 amends section 265 of the Communications Act 2003 to update public service remits of licensed public service channels to make clear that the high-quality and diverse programmes they make available must themselves contribute to the public service remit and together represent an adequate contribution. In line with the changes made by clause 1, it allows licensed public service channels to fulfil their remits by using a wider range of services.

Government amendment 1 ensures that when a public service broadcaster is required to fulfil the public service remit for a given channel, and that remit is to make available content, then it is the public service broadcaster that should be making that content available, either themselves or through others. That point of detail was arguably included in the Bill at its introduction, but we felt it necessary to bring forward the amendment in order to put this matter beyond doubt. It is a technical amendment, and I hope the Committee can support it.

Stephanie Peacock (Barnsley East) (Lab): I too welcome you to the Chair this afternoon, Mrs Cummins. As well as the remit covering all the public service broadcasters, there also exist separate remits covering the activity and content of each individual channel. The channel remits are important, as they ensure that the specific aims of each channel are clear in the context of the wider contribution these channels must make as a whole.

Section 265 of the Communications Act 2003 sets out the specific remit for channel 3, Channel 4 and Channel 5. As will become the theme in coming clauses, only channel 3, Channel 4 and Channel 5 are dealt with by this clause, with many of the same changes to the BBC and S4C made later on in the Bill due to their differing arrangements. In any case, section 265 ensures that channel 3 and Channel 5 must provide a range of high-quality and diverse programming. Meanwhile, Channel 4 has an extended remit that requires its programming to: be innovative, creative, experimental and distinctive; appeal to the tastes and interests of cultural diversity; include a significant contribution to meeting the need for education programmes; and exhibit a distinctive character.

The clause amends section 265 to update the remits. First, it makes clear that the high-quality and diverse programmes they make available must themselves make an adequate contribution to the wider public service remit. This is sensible, as it makes it explicitly clear how the individual channels will feed into the broader remit. Secondly, the clause allows public service broadcasters to fulfil their channel remits by means of any audio-visual service, echoing changes made in clause 1 that allow for on-demand programming to count toward the wider remit.

While I believe it is important we see public service programming on linear services protected, it makes sense that as on-demand viewership increases, channel remits should be given the same flexibility as was provided for the wider remit in clause 1. I therefore welcome the clause and the clarification it provides for each channel and the consistency it ensures for the new public service remit as a whole. I understand that amendment 1 is largely a technical clarification that specifies that audio-visual content contributing to a channel remit must be content made available by the provider of that channel. This seems to be a very sensible tidying up of phrasing.

Amendment 1 agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4

STATEMENTS OF PROGRAMME POLICY

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 5 stand part.

Sir John Whittingdale: Section 266 of the Communications Act 2003 puts a duty on Ofcom to require providers of licensed public service channels to prepare statements of their programme policies that set out how they intend to fulfil their individual channel remits. Currently, these statements must only be prepared in relation to the content provided by public service broadcasters on their traditional TV channels. Clause 4 amends section 266 of the 2003 Act. It expands these statements to reflect that the fulfilment of the public service remit could now include, as set out in clause 1, content delivered by on-demand services.

Going forward, the providers of licensed public service channels—channels 3, 4 and 5—must set out in their statement the services they are using to contribute to the fulfilment of the public service remit and explain how each service is contributing. The publication of these statements is important to allow proper scrutiny of our public service broadcasters.

Clause 5 of the Bill, which is grouped with clause 4, amends section 267 of the 2003 Act to update the definition of "a significant change", so that it would apply if any of the services that a licensed public service broadcaster is using to deliver its remit—not just the main channel, as before—were to become "materially different in character". For example, this will include on-demand services as well as the traditional TV channels. And like the previous clause, clause 5 will ensure that these statements continue to allow scrutiny of all the ways that the public service remit is fulfilled.

Stephanie Peacock: Clause 4 amends requirements on channels 3, 4 and 5 to report on how they intend to fulfil their channel remit. Indeed, due to clause 3, these channels will now be able to meet this remit using qualifying audio-visual services, including both linear and on-demand programmes.

As a result, licensed PSBs will now have to set out in their statement of programme policy which audio-visual services they use to fulfil their channel remit, as well as the contributions that each service will make. This is a necessary change to ensure that reporting standards, and as a result the standards of public service TV, do not slip or falter as a result of the changes made by clause 3.

However, making this change will also be beneficial, as it will help Ofcom to build a clear picture of how the new rules are being used and whether they are working effectively to serve both linear and on-demand audiences. Therefore, as a result of both the necessity for and benefit of clause 4, I am happy to welcome it.

Similarly, clause 5 makes further updates to the reporting requirements on channels 3, 4 and 5. Currently, public service broadcasters must make changes to their statement of programme policy if their public service channel makes "a significant change". "A significant change" is defined in the 2003 Act as the channel becoming

"materially different in character from in previous years."

To reflect the new rules, which will mean channel remits can be met by services beyond the public service channel, clause 5 updates the definition of "a significant change", so that it will apply if any of the services that a licensed public service broadcaster is using to deliver its remit becomes "materially different in character".

Widening the scope of the 2003 Act to include more than just the public service channel is sensible and necessary in relation to the changes made in clause 3 and, as such, I welcome the inclusion of clause 5 in the Bill.

Question put and agreed to.

Clause 4 accordingly ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

Clause 6

ENFORCEMENT OF PUBLIC SERVICE REMITS

Stephanie Peacock: I beg to move amendment 20, in clause 6, page 8, line 21, at end insert—

"(2A) In subsection (2)(a), after "serious", insert ", or at risk of becoming serious"".

This amendment would lower the threshold for Ofcom's intervention if it considers that a public service broadcaster has failed to fulfil its remit.

The Chair: With this it will be convenient to discuss clause stand part.

Stephanie Peacock: Clause 6 is another example of necessary changes being made to the Communications Act 2003 to reflect the changes in clause 3. Indeed, since public service broadcasters can now use on-demand services to deliver their remit, Ofcom's power to consider whether such a broadcaster has failed to fulfil its remit must be adjusted accordingly, so that on-demand services can be taken into account.

Likewise, it is right that Ofcom will be able to make directions and impose licence conditions that apply to audio-visual services, ensuring that its enforcement and monitoring now reflect the new flexibility in the remit. I therefore welcome the premise of this clause.

However, I want to speak briefly about Ofcom's enforcement powers more generally with reference to amendment 20. Given the increased flexibility that public service broadcasters have been given in meeting their remit, concern has been raised about the strength of Ofcom's position in being able to step in when things look as though they may go wrong. The British Association of Public Safety Communications Officials and Ofcom can step in only when failure to meet the remit is considered to be serious; and any failure is not excused by economic or market conditions. That seems to be an unreasonably high threshold for intervention that does not allow for preventive action to take place in order to stop an issue becoming serious in the first place.

As the Culture, Media and Sport Committee highlight in its comprehensive report on the Bill, enabling Ofcom to step in earlier if it perceives there is a risk of a breach becoming serious would not only protect the integrity

[Stephanie Peacock]

of the new regime but increase public confidence that the new remit would not come with a decline in standards. Ofcom itself has also recognised that, saying in its submission to the Committee that,

"it is important that this flexibility is accompanied with appropriate 'step in' powers so the commercial and PSB incentives remain effectively balanced."

Further, we will speak many times during the passage of the Bill about how important it is for Ofcom to be empowered as a result of it. Indeed, many of the new regimes in the Bill are reliant on Ofcom being able to act confidently in enforcement. As such, it must be given the tools to intervene where needed across the board. Therefore, my amendment proposes that section 270 of the Communications Act is updated to lower the threshold at which intervention can take place in the case of remit breaches. The phrase "is serious" will be adjusted to "is serious or at risk of becoming serious", thus ensuring that Ofcom can remedy any failures efficiently and in good time. Indeed, it is not my hope that that power will have to be used on a regular basis; there is every reason to believe that the public service broadcasters will continue to do their best to deliver on their remit for UK audiences. However, should that not be the case, it is important that we do all we can to mitigate any failure. I ask for Committee members support for this amendment.

Andy Carter (Warrington South) (Con): Can the hon. Lady give the Committee any examples of when Ofcom has been unable to act with its current powers against public service broadcasters in the linear world? She talks about making changes for the digital world, but are there current examples where Ofcom is concerned?

Stephanie Peacock: I do not believe so, no, but obviously the Bill is changing, and giving more powers to, Ofcom. Like any regulator, it needs to be able to enforce them properly; so it is really a preventive measure. We hope that the Minister will take the amendment in the spirit in which it is put forward.

Kirsty Blackman (Aberdeen North) (SNP): I rise briefly to support the amendment. This changes the remit requirements on public service broadcasters. I do not think that anyone is disagreeing with some of the changes that are being made. It makes sense for the public sector remit to be able to be fulfilled on some of the on-demand services, for example, in a way that currently they are not. However, the concerns that were raised earlier around genres, for example, are not written into the Bill. There is a requirement for there to be a range of genres but those definitions are no longer included. The system will probably need to bed in; it will probably take a bit of time. I agree with the shadow Minister that we do not expect public service broadcasters actually to create serious risk or enter this situation. If they do, though, I believe it is better for everyone for Ofcom to be able to intervene at an earlier point, for a number of different reasons.

If Ofcom can intervene earlier and is empowered and asked to do so, it will be cheaper, easier and quicker to sort out the issue. If it can act only once the issue is serious enough, then undoing that harm is difficult. Stopping the harm is better for the general public, better for the broadcasters, better for the staff who work within those broadcasters, and better for Ofcom, which will have to spend less time clearing up a mess and ensuring that a mess can be cleared up.

On the empowerment that it gives to Ofcom, I agree with the shadow Minister that it will not be used terribly often, but it does give Ofcom sufficient power to say to the broadcaster, "Things are not going right here. We think there is a risk of things becoming serious, so we would like you to make some changes," particularly when some of the quotas have been removed, for example, or some of the requirements for genres have been changed. It is going to take a while for the system to work as intended. The Government do intend it to work—I have no doubts that that is the case—but Ofcom needs to be empowered to ensure that it can do that.

2.15 pm

Damian Collins (Folkestone and Hythe) (Con): It strikes me that a lot of what the hon. Lady is talking about is relevant to the broadcasting code. It is Ofcom's job to issue guidance in relation to the code and to take action if a broadcaster fails to meet its obligations. If Ofcom feels that a broadcaster has no intention of keeping within the remit of the code, it can withdraw its licence. That is the ultimate sanction, and one that Ofcom has already.

Kirsty Blackman: That is absolutely the case. However, on this section of the Bill, which is about enforcing the public sector remit—sorry, I keep saying "public sector" when I mean "public service"; I spent too much time in local government. It is about enforcing the public service remit and amending this section of the Communications Act. The shadow Minister has made the case to allow Ofcom the ability to step in with a lighter touch. We do not want Ofcom to have to take licences away. We want Ofcom to assess that, if things are not going in the right direction, it is better for everyone if it ensures the proper provision and that everybody has access to the public service broadcasting that we would expect. We want Ofcom to have that earlier opportunity to step in and say, "Guys, it's time to make some changes before it gets to the point of being beyond repair."

Sir John Whittingdale: As the hon. Member for Barnsley East has already set out, section 270 of the Communications Act gives Ofcom enforcement powers to use in the event that it believes the provider of a licensed public service channel has failed to fulfil its statutory remit, or to make an adequate contribution to the public service remit for television. In those circumstances, Ofcom could issue a direction to the public service broadcaster setting out the steps for remedying the failure. Should it not give effect to that direction, Ofcom can also then impose additional obligations on the broadcaster.

In that context, clause 6 does three things. It amends section 270 to make clear that Ofcom can make directions and impose licence conditions in relation to any services that the public service broadcaster has indicated it is using to fulfil its channel remit. In the light of the ability of licensed public service broadcasters to use a wider range of services to deliver their remits, it will allow Ofcom to consider the record of the provider in using on-demand programme services when considering enforcement action.

Turning to amendment 20, I understand the Opposition's concern about whether Ofcom will have the tools it needs, which we absolutely share. However, we believe the particular change sought by the amendment is not necessary and would carry with it some dangers. First, as the Government have already set out to the Culture, Media and Sport Committee, there are reasons why Ofcom might form the opinion that the failure of a provider is serious, but it may consider that a failure is more serious if it is likely that it will be repeated without regulatory intervention.

Secondly, the power to enforce against the licensed public service broadcaster is not the only tool available to Ofcom. Ofcom can also take less formal action, working with public service broadcasters to produce good outcomes; it also has legal options.

Thirdly—this is perhaps the most important consideration—the amendment breaches what is quite an important principle: public service broadcasters need to be independent to make their own decisions about how they best run their channels now and in the future. Ofcom's role is to reach judgment on whether broadcasters have succeeded in meeting their public service remit. The amendment would make Ofcom a pre-broadcast regulator rather than a post-broadcast regulator. It would give Ofcom the ability to penalise failures that have not yet occurred.

Andy Carter: It strikes me that the Opposition's amendment would effectively take regulation back to the days of the Independent Broadcasting Authority where, before anything was done, permission was needed from the regulator. That type of regulation is of no benefit to the creative industries and to the freedom to innovate in the way the sector requires.

Sir John Whittingdale: My hon. Friend is right. It is a long-established principle that Ofcom is a post-transmission regulator. The acceptance of the amendment would change that and give Ofcom an ability to intervene before transmission. That would be a breach of what we consider quite an important principle. Therefore, on that basis, we cannot accept the amendment.

Kirsty Blackman: I have a follow-up question. Can the Minister give us some indication or understanding of how Ofcom will ensure that the remits are fulfilled across public service broadcasting, without having any sort of pre-conversations with each broadcaster—to ensure, for example, that there is enough educational content across all of them? How does he expect Ofcom to ensure that that happens without having pre-conversations and by only being a post-transmission regulator?

Some of the quotas and individualised direction are being removed. I am not necessarily suggesting that that is a bad thing, but the Minister's point about Ofcom being a post-transmission regulator goes against the fact that it will have expectations on the broadcasters as a whole, and will require some of them to do some things and some to do other things without knowing what those things are until afterwards.

Sir John Whittingdale: We are about to debate the fact that individual channels will be subject to some quotas. There are also the statements of programme policy that Ofcom will be required to approve. Having said that, Ofcom will reach a judgment on delivery of the remit, looking across the broad extent of public service broadcasting. Ofcom will be able to make it clear if it thinks a particular genre has not been sufficiently provided either by an individual public service broadcaster or, indeed, across the whole range of public service content. It will be for Ofcom to determine that, but I believe the Bill gives it that ability.

Stephanie Peacock: Throughout the Bill, we are giving more powers and responsibility to Ofcom. The amendment speaks to the idea that prevention is better than cure. I do not agree with the Minister's interpretation; indeed, the Select Committee spoke of the matter and the amendment echoes that. However, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 6 ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8

QUOTAS: INDEPENDENT PRODUCTIONS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clauses 9 and 14 stand part.

Sir John Whittingdale: Clauses 8 to 17 make amendments to the current system of quotas, which I will discuss in this group and the next.

Quotas are an important tool to ensure that public service broadcasters produce an appropriate range of content. Unlike the public service remit, which is judged by Ofcom in regard to the PSBs as a whole, quotas allow Ofcom to put licence conditions on specific public service broadcasters to ensure that they make available certain types of content. That is how we can ensure an appropriate balance of key types of content, such as news and current affairs, independently produced content and original content. It is worth stressing that such requirements are floors, not ceilings, and that PSBs routinely exceed them, often by a considerable margin.

Section 277 of the Communications Act sets out a minimum proportion of broadcast hours that must be independent productions. It is set at 25% for each of the licensed public service channels. Clause 8 amends this to change the way in which the provider of a licensed channel may deliver the independent production quota. In particular, subsection (2) replaces the existing requirement on the

"provider of a licensed public service channel"

to allocate time on the channel to the broadcasting of a

"range and diversity of independent productions".

Together with clauses 11 and 12, it will allow the requirements to be fulfilled using a public service broadcaster's designated on-demand programme services to better reflect modern viewing habits.

The subsection also replaces references to a proportion of hours that the provider of licensed public service channels must make available, with reference to a number of hours. The number of hours that each licensed public service channel must include is to be specified by the order of the Secretary of State. Given that this requirement can now be met using on-demand services,

[Sir John Whittingdale]

it is more appropriate to use the number of hours of content made available as a measurement rather than the proportion of hours.

Subsections (5), (7) and (9) make comparable provision in relation to expenditure quotas for independent productions that the Secretary of State may establish. In setting the new hours-based quota, the intention is for them to be no more or less demanding than the existing 25% quota. We therefore intend to calculate the effective level of the quota over the last five years and replicate that. Of course, in Channel 4's case, which we will come to later, that will be revised upward to the equivalent of 35% should Channel 4 decide to start a production business.

We believe that the consequence of that provision represents proportionate and reasonable requirements on our public service broadcasters. Of course, it is open to PSBs to go further and exceed their independent production quotas as they do now. Clause 9 makes similar amendments to section 278 of the Communications Act, which provides that a minimum proportion of broadcasting hours must be allocated to original productions. The proportion for each licensed public service channel, as well as the proportion in peak viewing times, is determined by Ofcom. As with clause 8, this clause ensures that the provider of the licensed public service channel can fulfil the quota using their designated on-demand services. That change is achieved by replacing the requirement to allocate time on the channel to the broadcasting of original productions with a more general requirement. Again, it makes provision for this to be measured by duration rather than as a proportion of broadcast hours as it is currently.

Clause 14 relates to the quotas for making programmes outside of London. The Communications Act currently provides that a minimum proportion of programmes made in the United Kingdom have to be made outside the M25 area. Similarly comparable provision is made in respect of expenditure. We debated this earlier, particularly in relation to the effect on production in Scotland and in Wales. Similarly, clause 14, read with the previous clauses, amends the Communications Act to preserve the substance of the provision, but it changes the way in which the provider may deliver their regional production quotas. In similar fashion, it again makes the change to measure the quota in terms of duration, rather than proportion of hours.

Together, these changes modernise our system to reflect the change that has occurred in audience viewing habits over the past 20 years, and ensure that it will continue to be meaningful and delivering value.

Stephanie Peacock: Clauses 8, 9 and 14 change the way in which licensed public service channels may deliver their independent production, original production and regional production quotas respectively. In short, they will first be changed to allow qualifying audio-visual services to fulfil this quota, meaning that on-demand and online services can make a contribution. That is the case with both the channel and the wider remit.

As a consequence of this move, the quotas are moving away from having to fill a certain proportion or percentage of content towards being based on a set number of hours of content and spend to be specified by the Secretary of State. I will look at each of these changes in turn, but first I want to emphasise how important the quotas themselves are, because they maximise the contribution our PSBs make to the wider broadcasting sector. For example, as the Minister just outlined, the requirement to have a number of programmes made outside the M25 area recognises the importance of reinvigorating our creative economy beyond simply the south-east. At the moment, our creative economy is densely concentrated in London, resulting in limited opportunities and entry points in the sector in other regions, including my constituency of Barnsley East. Yet, wherever we look in the UK, there is no shortage of culture and creativity. I am very supportive of the modernising and future-proofing of quotas, like those on content outside the M25, so that steps continue to be taken across the broadcasting industry to make use of the creativity that exists in every corner of the country.

2.30 pm

Looking to the changes these clauses will make, I welcome the move to allow on-demand content to count towards these quotas. I note with interest that some of the existing quota obligations are still tied to linear services. In particular, I am pleased that there will remain in place a specific mandate for linear channels to meet news and current affairs quotas. For the reasons I outlined in earlier discussions, many households do not have an internet connection, and it is especially important that those people are able to view news as easily as anyone else. Likewise, it makes sense for some quotas, namely on independent productions and original content, to be given more flexibility. As Channel 4 notes in its contribution to the Culture, Media and Sport Committee's pre-legislative scrutiny:

> "This is good for audiences who want high quality…content on streaming services, good for content producers to reach new audiences and develop innovative content, and good for public service broadcasters who engage audiences across multiple platforms and seek to leverage the huge opportunities of digital transformation."

I am therefore happy with the balance struck on the categories of quota that have been selected to allow online content to count towards them.

I move on to the way the Bill amends how these quotas are calculated. As previously mentioned, until now quotas have been proportional. For example, the Communications Act requires licensed PSBs to dedicate at least 25% of their broadcast hours to independent productions. In order to adjust to streaming delivery, the Bill changes that to an absolute quota: the Secretary of State will reference a particular number of hours and spend that each licensed public service channel must include as part of its programming. However, some broadcasters, notably Channel 4 and the BBC, have raised concerns over the lack of flexibility this provides. The current system of percentages allows PSBs to react to the wider economic circumstances on a rolling basis. For example, if anything—from inflation pressure to a global pandemic—changes the landscape in which broadcasting operates, a percentage quota means that even if overall production spend decreases, in order to secure economic stability the quota can still be met from a smaller pool of content. Pure numbers would not offer such a buffer. As Channel 4 put it concisely:

> "The net effect of this is that there would be no requirement or incentive…to invest more in content when times are good, and no flexibility to invest less in exceptional circumstances".

The BBC warned that, in such exceptional circumstances, it may

"have to make trade-offs in order to meet absolute quotas…to the detriment of audiences."

That should be of concern to not only the PSBs themselves, but all those who consume and enjoy public service content across the country.

Pact has also raised concerns that the number of hours in the quota may end up being too low to be meaningful. That will especially be the case if covid-impacted years are used to calculate an average number of hours of quota-related content produced in recent times. There are further concerns about the impact of changes to how repeat programmes count towards quotas, which I will address when discussing clause 12. Although I understand the intention behind the change, given the change to allow on-demand content to count towards quotas, I would still like the Minister to tell me what will be done to help PSBs mitigate this change while maintaining the impact and purpose of the quota. It would certainly be helpful if he could give an indication of what this numerical quota is expected to be and how it will be calculated so that preparations to meet it can begin. Anything the Minister can do to reassure PSBs and the public that the change will not result in perverse incentives would be gratefully received.

I want to pick up on one more issue related to the quota on original production. There has been some confusion over how peak requirements will apply. When it comes to linear viewing, it makes sense that quotas include requirements to show certain content at peak times. However, peak times do not exist in the catalogue of on-demand services: all content available is there at all times. It would be good to have some clarity from the Minister on how requirements relating to peak time will apply in the context of the new clause and as content continues to move away from linear television.

I also welcome the fact that the Secretary of State will retain the ability to define original productions by excluding certain types of content such as teleshopping from the quota. It is with that in mind that I welcome the intent of the clauses as a whole but look forward to the Minister's clarifications.

Kirsty Blackman: I will make a brief comment on the inclusion of on-demand services and the change to defining quotas in numbers of hours rather than in percentages. It could be incredibly difficult to calculate the total number of hours available of all programmes, because of the number of different platforms, apps and arms that each public service broadcaster has. I therefore understand the rationale for moving to a number of hours model instead of a percentage model.

To make the case in terms of on-demand services and on-demand hours, I hope the Minister will encourage Ofcom to ensure that the content that is counted towards these remits is accessible. We have spoken about digital inclusion already— I am not referring to that—but if, when people open BBC iPlayer, they can find a certain programme only by going through 17 screens, finding it at the bottom of a page further on and finding that it may be available only every second Tuesday, it will be very difficult for the broadcaster to argue that that programme is included in its number of hours. Will the Minister be clear that the broadcaster should be able to demonstrate to Ofcom that the content is both available and accessible in order for it to be included in the number of hours for quotas and to meet the agreed public service broadcasting remits?

Sir John Whittingdale: I am grateful for the general expression of support from the Opposition. As I said, it is not the Government's intention to make the quotas any less demanding than they are at present by moving from a proportional measurement to a numerical measurement of the number of hours.

The hon. Member for Barnsley East asked for an indication of what that meant. It is complicated, but using the data published for 2018 to 2022, we expect the quotas to be roughly as follows: all together, the BBC will have an independent production quota of 1,725 hours; regional channel 3 services will have a quota of 725 hours; Channel 4 will have a quota of 450 hours, rising to 625 hours if it chooses to start a production business; Channel 5 will have a quota of 325 hours; and S4C will have a quota of 425 hours. There is a significant variation between them, which, given that they were all at 25%, came as something of a surprise to me when I first looked at the data, but it is a reflection of the proportion of new, original programming commissioned by each channel. There is therefore a variety.

Ofcom will still have the duty to ensure that the quotas are met. If, by some chance, a PSB fails to meet its quota due to extraordinary circumstances, Ofcom can take that into account when considering whether to take enforcement action. However, the purpose of the change is to move the quota requirement into the modern world.

I hear what the hon. Member for Aberdeen North says about the risk of the number being hard to define. As we debated earlier, a programme will count towards the public service remit only if it is available on demand for 30 days, and Ofcom will need to be satisfied that it is accessible in the way the hon. Lady describes. On that basis, I hope that the clause can stand part.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clause 9 ordered to stand part of the Bill.

Clause 10

Power to create additional quotas for qualifying audiovisual content

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Government amendment 2.

Clauses 11 to 13 stand part.

Sir John Whittingdale: Clause 10 inserts proposed new section 278A into the Communications Act 2003. This will establish a mechanism for the creation of additional quotas for audio-visual content that has not been made available by one or more providers of

"licensed public service channels…to the extent that is appropriate."

That is achieved by empowering the Secretary of State in new subsection (1) to specify

"by regulations…a description of qualifying audiovisual content".

[Sir John Whittingdale]

This will include both specifying the type of content—for example, a particular type or genre—and how that content is to be delivered.

The power is essentially a backstop should there be a type of content that is neglected in the fulfilment of the public service remit, as we discussed. It will only be used as an exception rather than by rule. We believe that a modernised public service remit, deliverable across a wide range of services, will in most cases be sufficient to ensure a range of high-quality public service broadcasting. The power will ensure that the legislation is future-proofed against changes in how content is delivered—for example, by allowing the Secretary of State to require that certain content be delivered on certain services.

The bar for imposing additional quotas of this kind will be high. The more specific the proposed quota, the higher it should be. Before making a recommendation under these sections to introduce regulation, Ofcom will be required to consult members of the public, affected licensed public service channels and any other providers of television or on-demand programmed services. Any regulations made under the new section will be subject to the draft affirmative mechanism.

Clause 11 inserts proposed new section 278B into the 2003 Act, which introduces some important definitions that are relied on by other clauses. It defines "qualifying audiovisual content" and what it is to make available a "qualifying audiovisual service". It also specifies that this must be free of charge where it has been included in an on-demand programmed service, and it must have been included, as we said, for at least 30 days. These important definitions are needed for the functioning of the Bill.

Government amendment 2 is a technical amendment to clause 11, clarifying that, where qualifying audio-visual content has been made available through services provided by persons associated with the licensed PSB, arrangements must be in place between the PSB and that person. That corrects a theoretical anomaly between section 264, as amended, and the proposed new section, which could have resulted in quota content not counting towards a PSB's remit.

Clause 12 makes further provisions about how quotas can be fulfilled. It inserts proposed new section 278C into the 2003 Act, requiring the Secretary of State to make provision, either directly or through Ofcom, for the appropriate treatment of material that is made available by public service broadcasters multiple times. It can apply whether the repeats are on the same service, as with the traditional repeat, or across multiple services. We believe that this complex issue needs more detailed treatment. Before making any regulations in this area, the Secretary of State must consult Ofcom.

In respect of original and regional productions, and other additional quota conditions that may be determined, clause 12 allows for the treatment of repeats to be determined not by the Secretary of State but by Ofcom. Given that Ofcom is responsible for setting the level of those quotas, in our view it makes sense for it to continue to determine the treatment of repeats.

Turning to clause 13, section 285 of the 2003 Act requires that the provider of each licensed public service channel draws up a code of practice that they will apply when commissioning independent productions for that channel. Those codes of practice must be consistent with guidance issued by Ofcom, and this gives rise to a system of regulation known as the terms of trade regime. The purpose of the codes, and indeed, the terms of trade regime as a whole, is to ensure that broadcasters work fairly with independent production companies and do not take advantage of their dominant market position.

Clause 13 makes amendments to section 285 of the 2003 Act to extend the scope of the codes of practice to cover independent productions commissioned for other audio-visual services—for example, programming that is put on on-demand programme services—should the PSB wish to count those programmes as part of its independent productions quota. Subsection (3) is complementary, in mandating Ofcom to issue guidance with a view to ensuring that the PSB provides the person who is being commissioned with information about the application of the code. These essential provisions support the modernisation of our PSB system, and I commend Government amendment 2 and clauses 10 to 13 to the Committee.

2.45 pm

Stephanie Peacock: I will speak to each clause in this grouping in turn, starting with clause 10, which enables the Secretary of State to create additional quotas for audio-visual content by licensed public service channels. On the whole, I welcome the clause. In particular, I am pleased that changes have been made to the draft version of the Bill to ensure that the Secretary of State can make regulations only following a recommendation from Ofcom. As the Culture, Media and Sport Committee observed, no explanation was given regarding the circumstances in which it would have been necessary to use this backstop without an Ofcom recommendation. Media regulation is rightly independent from Government through Ofcom, and the adjustment will ensure that there are no concerns about a shift away from that.

On the intent of clause 10 more broadly, in theory, the new power that it provides is important. It is right that Ofcom should be able to mandate new quotas if it believes that audiences are being under-served. This is particularly true given the adjustments in clause 1 that make a number of simplifications to the remit, most notably removing explicit mention of the genres of content that must be provided, including, as we discussed, science, religious beliefs and matters of international importance. However, given that the genres have been removed, Ofcom's ability to monitor and recognise the gaps is unclear. That creates a sort of paradox: how can Ofcom judge whether audiences are being served properly if it is no longer monitoring the genres of content needed to ensure that there is a good service for those audiences? For that reason, I tabled amendment 19, which would ensure that genres would still be explicitly mentioned in legislation so that could be monitored accordingly. Without such a measure, the clause is at risk of failing to live up to its potential as a backstop measure to ensure that audiences are protected from a fall in quality programming.

Clause 11 underpins almost all the clauses in the first section of this Bill by defining phrases such as make available and "qualifying audiovisual content". Those phrases allow for on-demand content to count towards remit and quotas, and as such, it is important that they

are properly and sensibly defined. I am happy with the definitions on the whole, and it is pleasing that there is also room for additional audio-visual services to be added to the list of qualifying audio-visual content, subject to consultation with Ofcom and the affirmative procedure. That will effectively future-proof the measures in the Bill, subject to proper parliamentary scrutiny.

Clause 12 allows the Secretary of State to make regulations regarding whether content that is made available multiple times—more commonly known as repeats—counts towards production quotas. As I mentioned during the discussion on clauses 8, 9 and 14, some have raised concerns about how changes in this area could impact the ability of public service broadcasters to fulfil their quotas. At present, programmes that have been broadcast before in substantially the same form count towards some of the production quota. Any change, therefore, that results in repeats no longer counting towards those quotas, will mean that the quotas are harder to reach. For example, excluding repeats from counting towards quotas on original content will mean that more original content will have to be produced to meet existing obligations.

However, in the context of on-demand content, which will now count towards quotas, it is unclear how the concept of repeats could possibly be applied. Indeed, when viewing on-demand content, it is usually available 24/7 at the choice of the viewer, rather than run multiple times at the choice of the broadcaster, as is the case on linear. That brings up complex issues relating to how the contribution of repeats will be calculated as counting towards quotas in the digital age, the detail of which will need to be worked out promptly.

I therefore ask the Minister for guidance on how the Department intends to proceed in this area and use the power that the clause will give to the Secretary of State. Will repeats continue to be counted towards quotas on both linear and on-demand content, and if so, how will a repeat be defined on the on-demand service? Ultimately, it is important that the way that repeats count toward quotas and the level of new quotas are considered hand in hand. We must ensure that the quotas remain at levels that are meaningful enough to ensure quality content for audiences and encourage a healthy broadcasting ecology in the UK, while being at a reasonable level, given the economic constraints on the broadcasters.

Finally, I turn to clause 13. As I am sure we will touch on in more detail when we discuss the changes made to Channel 4's publisher-broadcaster restriction, our public service broadcasters are crucial to the success of the wider UK TV production sector. As stated in the submission from the Producers Alliance for Cinema and Television to the Culture, Media and Sport Committee, PSBs account for 77% of original UK commissions and, as a result, hold immense buyer power in the UK domestic commissioning market. Given their role and bargaining power in the sector, it is crucial that fair principles apply when public service broadcasters commission independent productions. The terms of trade regime, which was established following the Communications Act, has done a good job so far of ensuring that that is the case.

That is not to say that the landscape operates perfectly, and I know that some have raised concern over the rise of super-indies, which may make it more difficult for smaller indies to compete. Overall, however, it is welcome that the clause looks to maintain a successful supply side to the market by ensuring that the terms of trade regime will apply to any qualifying audio-visual content. That is important for the health of the sector as a whole. In particular, it has been welcomed by PACT, which has worked hard at many stages of the Bill to ensure that independent production companies are well represented and do not feel adverse effects as a result of the Bill.

Kirsty Blackman: I am pleased that the Minister has confirmed, for all these clauses, that any changes by regulation must be made using the affirmative procedure. Particularly on clause 10—a power he suggested would be used very rarely, if at all, and only if needed—it makes sense, given the level of importance attached to the power that it should have to go through the affirmative procedure to be implemented. I appreciate that the Government have chosen to do that.

It is important that additional services can be added by regulation rather than by primary legislation, particularly when there are continual updates and renewals—on digital platforms especially, we are seeing changes on a very regular basis. As I said, I was on the Online Safety Bill Committee, and it was so important to ensure that that Bill was future-proofed as far as possible. There are potentially on-demand services that we cannot conceive of or genres that currently do not exist that will be a massive part of daily life in a few short years. The Minister has ensured that there is flexibility, in concert with the Secretary of State and Ofcom, and then through the affirmative procedure in the House. I think it is sensible to future-proof the legislation by allowing regulations to be decided on using the affirmative procedure.

The same applies to the requirement of quotas for potential genres or ways that television is delivered that we cannot foresee today. I agree with the points made by the shadow Minister, the hon. Member for Barnsley East. It is important to look at what happens with repeats and to ensure that everybody is clear about what happens. I probably do not have a firm view of how those should be judged, but I do have a firm view that everybody should understand how they are judged, and people should understand it in advance, so that they know what the expectations are of them.

A clear definition of what a repeat looks like on an on-demand service is important. If something is available for 30 consecutive days, goes away for a day and then comes back for 30 consecutive days, would that be a repeat, or would it not? Would it be included in the quota? It is important that some of the public service broadcasters that are producing this stuff can take it down so that they can sell it abroad for a period of time if they need to in order to generate some income. As long as it is on the service for a length of time here—they are required to include it for those 30 days, for example, or longer—I think it is perfectly acceptable for them to use some of the productions to gain some cash to continue to produce their excellent programmes.

Sir John Whittingdale: We debated earlier whether we should continue to have specified genres as part of the public service remit. As I said, the Government considered it better to specify that there should be a broad range without necessarily going through each individual category. That does not mean that Ofcom will not have the power to consider the provision of precisely the same genres as

[Sir John Whittingdale]

they have in the past, and those will include things such as arts and classical music, religion, sport and drama. Ofcom will also be required to produce an annual report on what it considers to be the principal genres and on whether those are being met. Some of the concerns that the hon. Member for Barnsley East identified will be met by the Bill.

The treatment of repeats is complicated, as the hon. Member for Aberdeen North indicated. The Secretary of State will have the power to make regulation under the affirmative procedure, having consulted Ofcom. We cannot go into specific detail at this stage about how the power will be used, but I can say, in respect of independent productions, that the intention is that repeats should not count towards the quota, given the focus on the way in which programmes are made. But in respect of original and regional productions and other additional quota conditions that may be determined in the future, this allows for the treatment of repeats to be determined by Ofcom. Given that Ofcom will have the responsibility for setting the level of quotas, it makes sense for it to continue to determine the treatment of repeats. I hope that that provides a little more clarity, if not an absolute clear statement at this stage of how this will work.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Clause 11

QUOTAS: MEANING OF "QUALIFYING AUDIOVISUAL CONTENT" ETC

Amendment made: 2, in clause 11, page 12, line 29, leave out from beginning of line to "by" in line 30 and insert—

"(a) that content is provided by—

(i) the person, or

(ii) a person associated with the person, under arrangements made between the person and that associated person,".—*(Sir John Whittingdale.)*

This amendment adds a requirement that the provision of qualifying audiovisual content by a person associated with the provider of a licensed public service channel should be under arrangements made between the provider and the associated person.

Clause 11, as amended, ordered to stand part of the Bill.

Clauses 12 to 14 ordered to stand part of the Bill.

Clause 15

NETWORKING ARRANGEMENTS FOR CHANNEL 3

Sir John Whittingdale: I beg to move amendment 3, in clause 15, page 17, line 28, after first "for" insert "available".

This amendment and Amendment 4 secure that networking arrangements must be arrangements that provide for programmes made, commissioned or acquired by one or more holders of regional Channel 3 licences to be available for inclusion in qualifying audiovisual services that are connected with every licence holder, as services provided by the licence holder or by a person associated with the licence holder.

The Chair: With this it will be convenient to discuss the following:

Government amendments 4 to 7.

Clause stand part.

Clauses 16 and 17 stand part.

Schedule 1 stand part.

Sir John Whittingdale: Clause 15 of the Bill amends section 290 of the Communications Act, relating to the existence of a system of networking arrangements that govern the interaction between the providers of the different regional channel 3 services—that is, ITV and STV. Any such arrangement must be approved by Ofcom and, in considering whether to approve the arrangements proposed by a provider, Ofcom must consider whether the arrangements meet the three networking objectives set out in subsection (4). The basic premise of those arrangements is that the regional channel 3 services should be distinctive, but should nevertheless share programming between them.

Clause 15(2)(a) amends the second networking objective, which relates to the providers of a channel 3 service making programmes available

"for broadcasting in all regional Channel 3 services".

It replaces those words with the words,

"available for inclusion by every holder of such a licence in qualifying audiovisual services provided by that person".

Together with Government amendments 3 and 4, this will ensure that the networking arrangements remain relevant in a world where many viewers are choosing to watch programmes on demand.

3 pm

Subsection (2)(b) amends the third networking objective, which relates to the need for regional channel 3 services to compete effectively in the UK television market. The objective is reframed in terms of the ability of the providers of those services to be able to compete effectively both with programme services and on-demand services provided in the United Kingdom. Subsection (4) amends the requirement for Ofcom to review annually any networking arrangement that it has previously approved, replacing it with a requirement to review it at least every five years.

Clause 15 is amended by Government amendments 3 to 7, all of which are technical in nature and include amendments related to persons associated with public service broadcasters. That terminology is used in part 2 to ensure that all the different legal structures used by our PSBs are adequately and appropriately accounted for. Given that these are technical amendments, I hope that Committee members will support them.

Clause 16 is different. It repeals section 296 of the Communications Act, which makes provision for a quota in respect of schools programming on Channel 4. The Government recognise that schools programming is very important, but the quota is currently set at 30 minutes per year and has been at that level for some time. We do not believe that a quota set at that level is meaningful, so we propose to repeal it. In the light of changes made to the quota obligations imposed by clauses 8 and 9, clause 17 introduces schedule 1, which makes comparable provision for the BBC and S4C. It includes changes to ensure that on-demand content can form part of any quotas for original and independently produced content to which the BBC and S4C are subject in statute and that these are measured directly, rather than as a proportion of hours shown, as we have previously debated.

Stephanie Peacock: This grouping covers clauses 15 to 17, schedule 1, and a small set of Government amendments. I will address all of those briefly in turn.

Clause 15 makes amendments that are largely consequential to the issues already discussed. It acknowledges the ability of public service broadcasters to use qualifying audio-visual services to meet their remits, and ensures that that also applies to requirements around network arrangements. I have mentioned previously that I am in favour of that new flexibility for broadcasters, given changing audience patterns, and I believe it makes sense to mirror this change in network arrangement requirements.

Clause 16 removes the Channel 4 quota to create a specified level of programmes intended for use in schools. It is my understanding that the quota is currently set at the low bar of 30 minutes, as the Minister has just mentioned. Channel 4 surpasses that quota, and it is somewhat arbitrary, given Channel 4's wider commitments around education. These wider themes around educational content are extremely important, but it seems that this specific quota is no longer making an active contribution in the way it once did. I am therefore happy to move on without raising any particular issues. I also have no particular issues with the Government amendments, which are largely technical and consequential, and clear up confusion in some areas.

Finally, clause 17 and schedule 1 primarily echo the major changes made in this part of the Bill for ITV, Channel 4 and Channel 5, applying them to the BBC and S4C too. That includes confirming that quotas on independent content will be set at a number of hours, rather than as a percentage for both S4C and the BBC. The concern around a move to pure number targets from percentages is something I have already raised, but I wish to note that the BBC in particular took objection to that during the process of pre-legislative scrutiny. In its submission to the Committee, the BBC argued that the Government should take advantage of the distinctive regulatory framework to maintain proportional targets. Would the Minister use this opportunity to explain whether that was something which the Department explored?

Kirsty Blackman: I have some questions from colleagues about channel 3, in particular on the provision of ITV Border, which is the cross-border channel 3 provider that operates around Dumfries, Galloway and, across the border, Carlisle. People in the south of Scotland in such areas do not receive STV; they receive ITV Border, with its regional news and other channel 3 provision.

One of my colleagues, Emma Harper, who is a Member of the Scottish Parliament and has done a significant amount of research and work on this on behalf of her constituents has expressed concerns about the percentage of the content made south of the border compared with the proportion made north of the border. If we are to ensure that, for example, the regional dialects and languages of the UK are part of the public service remit, having a significantly unbalanced situation with ITV Border is a slight concern. It is a bit of an issue for my colleague's constituents.

Another matter that comes into play concerns news, or updating the general public and ensuring that they are aware of issues. STV—channel 3—is a significant place for people to get access to local news in particular so that they can understand what is going on in their areas more widely, as well as nationally. People in the ITV Border region are being given information about school, legal and policing policies that apply south of the border, but not in Scotland. The content has to be significantly delineated because it is split across two very different jurisdictions—that is in some, not all, legal areas, such as school policy. For example, the school systems are completely different north and south of the border.

What consideration has the Minister given to asking Ofcom to look at ITV Border and whether it is best serving the populations on both sides of the border to ensure that everyone has the most up-to-date regional content in their area? I am not suggesting that we should always have certain delineations, but in this sector in particular, which people rely on for news services and updates, having a disparity that particularly affects the people of the Scottish Borders, rather than the English borders—because more content is made in the south—is a concern.

I would very much appreciate it if the Minister agreed to have a look at this, or to have a chat with Ofcom about the provision of ITV Border to ensure that he and Ofcom believe that the broadcaster is appropriate and properly serving people on both sides of the Scotland-England border.

Hywel Williams (Arfon) (PC): I have a brief point to make about providing services across the border, as the hon. Lady referred to. That has been a problem in Wales, especially with Welsh language programmes intruding on English language provision to the extent that many people on the borders and the south Wales coast would turn their aerials eastwards or southwards, so the news that they got was for the west or north-west of England. That was remedied to some extent in the north-west at least, by Granada carrying Welsh news, which was a peculiar situation for people in the north-west of England who would receive news about the goings-on in the Llŷn peninsula, where I used to live. There are ways of remedying that, and one way would be for the service south of the border to carry some news from the north.

Sir John Whittingdale: I am grateful to all those who have made contributions. I will come on to address the points made by the hon. Member for Barnsley East returns, but first I will address the points made regarding Scotland and Wales.

I have some sympathy with that, because while we maybe do not feel as strongly about these things as representatives of the SNP and Plaid Cymru, my own constituents frequently have to listen to news about what is happening in London, rather than Essex, because of the way in which some people receive regional programming.

I fully understand the point made by the hon. Member for Aberdeen North. It is perhaps a consequence of the fact that the boundaries of regional services television do not necessarily coincide with national boundaries, which may mean that people on the border are receiving television services that are less appropriate for them, given their geographic location. I think that is probably a difficult issue to solve, but I would certainly encourage her to discuss it with Ofcom, which will obviously need to be satisfied that each of the channels is delivering the public service remit across the geographic area that it is covering. I think that is probably a matter for Ofcom; I will certainly draw it to its attention and suggest that it might like to talk to the hon. Lady further.

Rob Butler (Aylesbury) (Con): In a similar vein, would my right hon. Friend ask Ofcom to look at the implications of the BBC's decision last year to close its sub-regional newsrooms in Oxford and Cambridge, which means that my constituents in Aylesbury now only get to see regional news from Southampton. It is quite a stretch to see anything in common between the two areas, not least as Aylesbury is one of the furthest inland towns in the country. The BBC, of all organisations, is supposed to represent the whole of the country, and that means each and every part of the country.

Sir John Whittingdale: My hon. Friend tempts me to go down a route that could open up a whole new area of debate. I have to say that I share his concern about some of the decisions taken, particularly in relation to local news provision, by the BBC on radio and, indeed, in local news services. He will be aware, and he has a lot of experience in this area, that this is a matter for the BBC. That does not mean that we do not make clear our own views to the BBC about how it is delivering its obligations to provide for local news. We will continue to do that, but it is ultimately a matter for the BBC.

In relation to some of the points made by the hon. Member for Barnsley East, we want the BBC to have a consistent approach, recognising its distinctive contribution. We will be looking at all these matters when we come to consider the renewal of the charter which, as we discussed this morning, will start not instantly, but in the not too distant future.

Amendment 3 agreed to.

Amendments made: 4, in clause 15, page 17, line 29, leave out from "substitute" to end of line 30 and insert

"", in relation to each holder of such a licence, available for inclusion in one or more qualifying audiovisual services provided by that holder or a person associated with that holder";".

See explanatory statement to Amendment 3.

Amendment 5, in clause 15, page 17, line 32, after "licences" insert

"and persons associated with any of those holders".

This amendment secures that the purpose of networking arrangements is to enable holders of regional Channel 3 licences and persons associated with those holders to provide qualifying audiovisual services that (taken as a whole) are able to compete effectively with other television programme services and on-demand programme services provided in the United Kingdom.

Amendment 6, in clause 15, page 17, line 35, at end insert—

"(2A) After subsection (4) insert—

"(4A) Section 362AZ12(6) (meaning of references to a person associated with a public service broadcaster) applies for the purposes of subsection (4)(b) and (c) as it applies for the purposes of Part 3A.""

This amendment is consequential upon Amendments 4 and 5.

Amendment 7, in clause 15, page 17, line 36, leave out "(4)" and insert

"(4A) (inserted by subsection (2A))".—*(Sir John Whittingdale.)*

This amendment is consequential upon Amendment 6.

Clause 15, as amended, ordered to stand part of the Bill.

Clauses 16 and 17 ordered to stand part of the Bill.

Schedule 1 agreed to.

Clause 18

POWER TO REQUIRE INFORMATION

Question proposed, That the clause stand part of the Bill.

3.15 pm

Sir John Whittingdale: Clause 18 inserts two new sections into the Communications Act to ensure that Ofcom has the powers to gather the information which it needs to regulate this part of the Bill effectively. Proposed new section 338A of the Communications Act will give Ofcom the power to issue information notices to request any information which it needs to carry out its functions under sections 198B to 198D, sections 263 to 294, schedule 11 and certain provisions in schedule 12 of the 2003 Act. It includes its functions and duties to regulate the public service remit, quotas and licence conditions. An information notice will compel the recipient to provide Ofcom with the information specified in the notice, including where such information must first be obtained or generated by the party. An information notice may be served on a PSB other than the BBC or, where necessary, a third party, but only where proportionate. Proposed new section 338A(7) clarifies that the power to require the provision of information includes the

"power to require the provision of information held outside the United Kingdom."

Clause 18 also introduces proposed new section 338B of the Communications Act, which will allow Ofcom to take enforcement action against any party that does not comply with an information notice under proposed new section 338A. After allowing the person to make representations, Ofcom may issue a penalty notice imposing a financial penalty. This penalty in respect of an information notice cannot exceed £250,000. In the case of a continuing failure to comply with a notice, a penalty notice may also require a penalty of an amount not exceeding £500 per day for each day the failure continues after the penalty notice is issued. I commend the clause to the Committee.

Stephanie Peacock: During discussion of clause 6, I mentioned that, as a result of the changes in the Bill, it will be increasingly important for Ofcom to be able to step in where there is a risk of public service broadcasters failing to fulfil their remit and quotas. I am therefore supportive of this clause, as it gives Ofcom the power to issue information notices and financial penalties to public service broadcasters in respect of breaches in the fulfilment of their duties. Although I have confidence in the willingness of our excellent public service broadcasters to carry out their remits and quotas, it is important that Ofcom is able to ensure that and provide a backstop where necessary.

I will say this more than once: the Bill really does rely on a strong and empowered Ofcom. It is with that in mind that I believe the powers to find out further information and impose penalties where necessary are proportionate and important tools that will enable the regulator to do its job. I therefore welcome the clause.

Question put and agreed to.

Clause 18 accordingly ordered to stand part of the Bill.

Clause 19

AMOUNT OF FINANCIAL PENALTIES: QUALIFYING REVENUE

Question proposed, That the clause stand part of the Bill.

Sir John Whittingdale: Clause 19 addresses the calculation of financial penalties in respect of channels 3, 4 and 5. By way of context, the Broadcasting Act 1990 and schedule 9 to the Communications Act 2003 relate to the financial penalties that Ofcom may impose on the provider of a licensed public service channel in certain circumstances. In each case, the maximum penalty that Ofcom may impose is set by reference to the qualifying revenue of the provider or, in the case of section 18, whichever is greater—that or £500,000. Having maximum penalties in reference to revenue helps to ensure that penalties strike an appropriate balance between being dissuasive and proportionate. That link is important in accounting for the differences in size and revenue of different public service broadcasters.

The clause inserts proposed new section 18A of the Broadcasting Act 1990, which will amend the existing definition of the qualifying revenue of the provider of a licensed public service channel specifically in relation to financial penalties. The new definition includes revenues from both the licensed public service channel and certain services included in any designated internet programme service provided by that provider. As part 1 of the Bill will expand the ways in which PSBs can fulfil their remit and meet their quotas, it is only right that should a PSB not complete their responsibilities, the revenue of the internet programme services that they provide and which benefit from prominence should be taken into account. That is the purpose of the clause, which I commend to the Committee.

Stephanie Peacock: The clause amends the definition of "qualifying revenue" where it is used as a reference measure to help set the maximum penalty Ofcom can impose on public service broadcasters. The change will see the revenue a PSB gains by providing on-demand and online services included alongside the revenue that it gets from its public service channel when making the calculation. Given that online and on-demand content can now count towards quotas and remits, it makes sense that the revenue from such content should be considered when determining maximum fines. I am therefore happy to support the clause.

Question put and agreed to.

Clause 19 accordingly ordered to stand part of the Bill.

Clause 20

CATEGORIES OF RELEVANT SERVICE

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss new clause 2—*Digital rights to listed events*—

> "(1) The Secretary of State may by regulations amend the Broadcasting Act 1996 to make provision for coverage of listed events which is not live coverage.
>
> (2) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament."

Sir John Whittingdale: This part of the Bill relates to the listed events regime, which seeks to strike a balance, so that broadcasts of key sporting events are widely available and free to air, while sports rights holders are able to use the income that they generate from rights to invest in their sport. Clause 20 updates the listed events regime to make qualification for the regime a PSB-specific benefit, reserved for PSB services that are free of charge. This change was first recommended by Ofcom in its "Small Screen: Big Debate" report in 2021.

The change we are proposing recognises both the practical difficulties around the current audience reach-based approach and the fact that our PSBs play a key role in distributing content that is of interest to British audiences. The current qualifying criteria stipulate that a qualifying service must be free and received by 95% of the UK population. In a changing market, in which audiences can use a range of technologies to access content, we need to ensure that the qualifying criteria are both appropriate and future-proofed.

The clause also closes the streamer loophole; it brings into the regime TV-like service providers that are not based in the UK but intend to show live coverage of listed events to UK audiences. The change recognises that audiences have increased access to content provided by global providers. If we did not bring these providers into scope, there is a risk that the contents of live listed events could be purchased via a streaming service and put behind a paywall, without the provider adhering to the rules of the regime.

The PSB services that will qualify are those that are free and genuinely used by PSBs to fulfil remit. Those are either the PSB licensed channels or the internet programme services that have been designated by Ofcom for prominence. It is important to note that changes to the regime do not preclude non-PSBs from bidding for rights. The regime does not guarantee that an event will be broadcast live or on a free-to-air channel. Rights holders are not required to sell live rights, and broadcasters are not obliged to purchase them or to show events. The legislation sets out that where live rights to a listed event are sold, they must be offered to both PSBs and non-qualifying services. That ensures that the right balance is struck between audiences being able to watch coverage of our major national sporting events, and rights holders and broadcasters having the commercial freedom to negotiate deals in their interest, so that they can reinvest in elite and grassroots sport.

Stephanie Peacock: The listed events regime is a vital scheme that allows for major sporting events of national importance to be broadcast on free-to-air channels. Its success since its introduction decades ago has been outstanding. Almost everyone in this room and across the country will have a fond memory of watching a listed event, whether that be watching Mo Farah cross the finish line at the London Olympics in 2012 or seeing Andy Murray win at Wimbledon.

These major occasions bring our country together, and unite us in victory and loss, but the benefit does not end after the programme has finished. An event being televised can be a catalyst for the nationwide success of a sport. The final of the women's Euros, for example, was watched by more than 17 million people. As a result, the number of women and girls participating in grassroots football has no doubt increased, and attendance at women's league events has reached a record high,

[Stephanie Peacock]

generating further revenue for reinvestment in the sport. Televised sporting events are also a big boost for our hospitality businesses, allowing people to watch major matches together in pubs, bars and restaurants, no matter where they are in the country. With that in mind, it is right that we do all we can to preserve the listed events regime and ensure that important sporting events are available to watch as widely as possible.

An event's being listed does not guarantee that it will be broadcast live or on a free-to-air channel, but if rights are made available to qualifying services, there is the best chance of the event being seen by as many people as possible. The definition of a qualified service is a broadcast channel that is received by 95% of the population and is free to air. I have spoken many times about the importance of ensuring that there is sufficient content available on linear television. Over the coming years, we must anticipate that viewing on a range of devices will increase. A listed events regime based on broadcast audience reach is therefore no longer fit for purpose because, as Channel 4 notes in its submission to the Culture, Media and Sport Committee, there is a risk of some PSBs falling out of the regime altogether in future. It is welcome, therefore, that the clause amends the scope of the listed events regime, so that it is a PSB-specific benefit. That ensures that no one drops out of the regime. It also allows channels such as S4C—a PSB that does not reach 95% of the UK—to be included.

I am also pleased that the clause looks to end the streaming loophole, which has caused widespread concern. Until now, the listed events regime has applied only to television programme providers, meaning those who hold Ofcom broadcast licences, plus the BBC and S4C. The draft Media Bill proposed extending the regime to include "internet programme services", but that failed to capture unregulated online services such as livestreams. Theoretically, those services could buy the rights to a listed event and put it behind a paywall, and so undermine the regime. It is welcome that the new version of the Bill creates a new definition of services that fall within the scope of the regime, so that TV-like services providing live content to UK audiences via the internet are captured.

The likes of the BBC and ITV had concerns about the effectiveness of some of the other options on the table for shutting the loophole, such as extending regulation of electronic programme guides. What assurances has the Minister received, this time round, that the clause will close the loophole once and for all? If we can be confident that it is the solution, I will be more than happy to support the clause.

Given the effort that Ministers have put into future-proofing the integrity of the listed events regime when it comes to the streaming loophole, it is extremely disappointing that there has been no attempt to include digital rights in the Bill. It seems quite straightforward: if we want to ensure that sporting events of national importance are available for people to view for free in years to come, the regime should be extended to reflect the new ways that people consume content, including online.

Again, as Channel 4 highlights in its submission to the Culture, Media and Sport Committee, in recent years, its content on social media platforms, such as YouTube and TikTok, has generated a

"record number of hits for highlights and digital clips of live sport."

Last year, Channel 4's sport content on YouTube drew 16.8 million viewers globally and 8.2 million viewers in the UK. Those figures were driven mostly by Nations League and Formula 1 coverage, and were up 430% on the year before. That type of content seems to be catering to a growing younger audience: more than a quarter of the Channel 4 Corporation's sport content on YouTube is viewed by 13 to 24-year-olds in the UK. However, this is not just about putting content where it is likely to be viewed in years to come. It is about ensuring the integrity of the regime.

As significant sporting events are often global competitions, they may take place in various time zones, including when it is night-time in the UK. In such situations, the live broadcast of the event may be of limited value to UK citizens, who will be asleep during the event. However, the next day, digital and on-demand clips could be immensely popular, as they would allow UK audiences to experience the moments they missed. As the BBC highlights, when Charlotte Worthington won gold at Tokyo in 2020, just 400,000 people were able to watch that in the middle of the night, but in the days that followed, different forms of short-form coverage of the event gathered more than 3.4 million views. If the BBC does not have access to those digital and on-demand rights, which will likely be the case in the future if there is no change to the regime, such national moments of pride could become restricted and hidden behind paywalls. That would go against the entire objective of the listed events regime. I know the Government recognise that, because they are conducting a review of digital rights, but we have had no updates on the progress of the review, and it is unclear how its recommendations will be implemented, if not through this Bill.

3.30 pm

I have spoken to many public service broadcasters about the issue, and given that media legislation seems to come round only every 20 years, they are concerned that this Bill may end up being a huge missed opportunity to make changes to digital rights. I therefore tabled an amendment that allows the Government's review to come to its conclusions, but enables changes to be made to digital rights in the future through secondary legislation. Of course, scrutiny will be required on the detail of changes, which is why the amendment allows for parliamentary scrutiny of any new laws in this area, but without an enabling provision, we risk not being able to address digital rights.

The listed events regime is incredibly important to people in this country, as are the sports that it represents, and I hope that the regime will be protected in the Bill. I ask that, at the very least, the Minister shares with us details of the progress on the Government's review, and explains why he is of the opinion that an enabling provision is unnecessary, particularly given that it need not be used if his Department's review concludes that this issue could be addressed in other ways. I look forward to his response, and to working with him to create a Bill that genuinely future-proofs the listed events regime, rather than taking two steps forward in one area and three steps back in another.

Hywel Williams: I welcome the change proposed in clause 20. Major sporting events are a crucial means of introducing people to S4C's services and, indeed, the

Welsh language. In fact, I noted rather jocularly this morning that that has already happened with some events, which were not specified.

For the Committee's interest, let me set out a couple of ways of getting round the difficulties that S4C faced. Sky at one time had a red button feature that allowed commentary in Welsh or English, as one pleased, but that experimental provision died a death, I am afraid. Rather more interestingly, when S4C was not allowed to carry Five Nations rugby, many people, including me, watched BBC Wales with the sound turned down, and listened to the commentary in Welsh on Radio Cymru—we are a very inventive nation.

The point is that under the current regime, only free-to-air channels received by 95% of the UK population qualify, as the hon. Member for Barnsley East mentioned. S4C was the only PSB excluded, although of course it could be received by 95% of the population it specifically served. I welcome the provision, which redresses that anomaly by specifying S4C.

Kirsty Blackman: I absolutely agree about the rugby coverage. Similarly, we watched Scotland games with the volume turned off and Radio Scotland turned on, so that we had commentary from our nation, rather than another nation. Understandably, commentators are always a little biased, and that is fine, but we would like the option of hearing those that are biased in our favour for once. That does not necessarily happen on some of the other channels.

On new clause 2, which relates to access to listed events, I agree with the comments about time zones, and access to non-live events happening on the other side of the world. It would make sense for public service broadcasters to be able to access rights to listed events happening in other time zones. For example, my husband has been obsessed with American football for a significant time. Quite often, if he is not able to watch a live game, then the next day, or the day after that, he watches the 40-minute highlights available on on-demand services for the most important sporting events. Events such as the Olympics, or the women's or men's football World cup, can be held in places that mean that the live rights are not terribly useful unless someone is so dedicated that they get up at 3 o'clock in the morning to watch. I am sure that many people watching then would just not go to bed, but it would be more enjoyable for most people to catch up on the highlights the next day—provided, of course, that their team had done all right.

I agree with the points made on new clause 2, and I think it is a clever way to go about the issue. It does not require the Secretary of State to make legislation, but if the Secretary of State chooses to make it, the new clause requires it to be made through the draft affirmative procedure, so the Houses would have a say on it. It is an enabling provision, which is incredibly important, given the changing nature of viewing.

Sir John Whittingdale: I am concerned to hear from the hon. Lady about the bias that has crept into BBC Scotland's coverage.

Kirsty Blackman: I do not think I mentioned the BBC—or I tried not to.

Sir John Whittingdale: However, I understand her point. As the hon. Member for Arfon highlighted, under clause 20, the right to listed events that are broadcast free to air must be extended to public service broadcasters, so in future, that will include S4C. I am grateful for the support that the hon. Member for Barnsley East expressed for the closure of the streaming loophole; we think that the Bill will close that, and therefore preserve the ability to watch live broadcasts of listed events.

As more and more people access digital broadcasting, digital rights are clearly something that we will need to consider. That is why we are undertaking the digital rights review. I note that the review was a recommendation of the Culture, Media and Sport Committee, so we recognise that there is quite a lot of interest and support for it. It is important that we get this right. As I was saying, the listed events regime is about balancing the ability of a large number of people to watch iconic sporting events free to air, and the ability of rights holders to raise revenue from the sale of rights—revenue that can obviously be invested back into the sport. Striking that balance has always been the difficulty with the listed events regime. If the regime is to be extended in this way, we want to get it right.

New clause 2, tabled by the hon. Member for Barnsley East, does give quite a broad power, which could lead to uncertainty for broadcasters and rights holders when they are negotiating deals, given that at the moment we have not spelled out how and whether we would extend the regime to digital rights. That is actively under consideration.

Stephanie Peacock: I appreciate the points that the Minister makes, and I am not against them, but would he enlighten the Committee on how the recommendations made in the review will be put into action and into law, if not through this Media Bill?

Sir John Whittingdale: I cannot guarantee that there will be a successor media Bill immediately. Equally, although it was suggested that media Bills only come around every 20 years, I hope that we would not have to wait that long. As I say, at this stage, we are concerned with getting this absolutely right, and I have no doubt that we will continue to debate the issue. I hope that we can publish the results of the review very soon, but at this stage, we cannot accept new clause 2.

The Chair: Shadow Minister, do you want to respond on new clause 2?

Stephanie Peacock: My apologies; I responded in my intervention. I believe we can vote on the new clause later, but the points that I made in the intervention stand. I am very keen to hear about the findings of the review, and to find a vehicle for changes to be put into action, because I am not sure that the Minister has fully responded to my points.

Question put and agreed to.

Clause 20 accordingly ordered to stand part of the Bill.

Clause 21

CONTRACTS RELATING TO COVERAGE OF LISTED EVENTS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss new clause 8—*Regulations about coverage of listed events*—

"(1) The Broadcasting Act 1996 is amended as follows.

(2) After section 104ZA insert—

'104ZB Financial matters arising from the listing of events: the Listed Events Fund

(1) The Secretary of State shall establish a fund (the 'Listed Events Fund') with the purpose of minimising the consequential financial impact of the listing of events on sporting governing bodies who would otherwise suffer egregious financial distress.

(2) Payments from the fund shall be limited to governing bodies and other sporting rights holders who maintain their registered office in Scotland, Wales, Northern Ireland or England and whose primary geographic area of responsibility lies within one of these territories.

(3) The Secretary of State, following the revision of the listing of events in Group A of the list drawn up under subsection (1) of section 97, shall invite governing bodies and other organisations who could reasonably assess their turnover or income as dropping as a result of an event being listed in Group A (and who qualify under the provisions of subsection (2) of this section) to apply to him for payment from the fund.

(4) No organisation with a reported turnover of greater than £50 million per annum for the financial year in which any subvention may be paid shall be entitled to payment from the fund.

(5) The amount laid down in subsection (4) may be varied by the Secretary of State on an annual basis, but may not increase by a rate greater than that of the Retail Price Index as measured at any point in the three months previous to any proposed variation.'"

This new clause would provide a fund under the auspices of the Secretary of State to be paid to governing bodies or other broadcasting rights holders who may experience financial detriment as a result of listing under Group A.

Sir John Whittingdale: As we have just debated, the listed events regime seeks to ensure that key supporting events are widely available and free to air, while achieving balance that ensures that rights holders are able to use the income that is generated from a sale. One of the ways in which we seek to achieve this outcome is by prohibiting exclusive contracts for live rights to show coverage of listed events. This applies equally to PSBs and non-PSBs. It encourages competition and stops a situation in which a broadcaster can work with a rights holder to shut down an open process by concluding an exclusive deal.

The purpose of this clause extends the application of existing legislation that prohibits exclusive contracts for live coverage of listed events to the new wider range of services that the regime covers. The existing section 99 of the Broadcasting Act 1996 ensures that exclusive contracts are void. This stops rights holders and broadcasters bypassing the regime and it enables Ofcom to conduct its work on establishing whether live coverage is being shown by a provider in another category and is therefore authorised, or whether rights were offered to other services without fear of legal repercussions flowing from contracts that have already been concluded. The existing section 100 requires that a contract between a broadcaster and a sports rights holder must specify the category of service on which a listed event is to be televised. In line with the changes we have made to close the streaming loophole, this clause amends the scope of services caught by sections 99 and 100 to include those services which will be in scope of the listed events regime under the Bill. It would be inconsistent to require these services to heed the rules of the listed events regime without also putting in place the relevant protections to allow Ofcom to conduct its assessments.

Kirsty Blackman: I stand up in order to speak to new clause 8, in relation to contractual arrangements for listed events. The intention behind this is to provide a fund under the auspices of the Secretary of State to be paid to governing bodies or other broadcasting rights holders that may experience financial detriment because of a listing under group A. Payments from this fund are limited to those organisations with a turnover of less than £50 million per annum, with this threshold allowed to increase by the retail price index on an annual basis, with some limits in relation to the increase.

The Minister is right in relation to the financial implications for both selling rights and buying rights, and the cost. The issue for us is that football is a fundamental part of Scottish culture, and it should be accessible to all. In many other countries, home nation international games must be on free TV by law. As the Minister has said, there is no requirement for a number of listed events to be shown on free-to-air television, but the rights must be offered.

It is absolutely the case that people in Scotland will do whatever we can to watch our team qualify for anything, given that it happens so rarely. Once we have qualified for something, we will do everything we can to ensure we can watch those games. We have already made the case in relation to those people who are excluded from digital participation—for example, those who do not have access to streaming services—who would be incredibly keen to watch our women's team or our men's team play football. This new clause would allow for financial backing, which would ensure that organisations were not prohibited from showing listed events. The Government would not then have to converse with those organisations, because they would be able to apply to the fund in order to be able to afford to allow the population to see the events on free to air.

3.45 pm

As I did in this morning's sitting, I thank my hon. Friend the Member for Paisley and Renfrewshire North (Gavin Newlands) for his work on this and his ongoing commitment. I am sure that the Minister, and many Committee Members, have heard my colleague make the case in the Chamber that we should be able to see more of our home teams playing football on television. The new clause would ensure that there was a fund in place to ensure that those rights can be offered for all those listed events, whatever the sport, and that it is not necessarily the highest bidder or the biggest amount of money that is the key determinant of whether individuals living in our countries can see their teams on television.

Stephanie Peacock: I will start by discussing new clause 8. Once again, I reiterate my support for the listed events regime, which connects communities across the UK in experiencing moments of national sporting importance by prioritising rights for free to air channels, soon to be PSBs. In the following debates, I will also go on to speak about how any expansion of the regime requires consideration. In particular, that is due to the need to balance the benefits of investment in the relevant

sport, gained through the funds gathered by financial television deals, and the desire for people to see events in that sport free to air.

I understand where the new clause is coming from in this respect, as it looks to recognise that balance and tip it in favour of making more events available on the regime, with the financial losses compensated by a new Government fund. I recognise also that a good attempt has been made to keep proportionality in mind, given that organisations with a turnover of more than £50 million per year are excluded from being entitled to anything from the proposed fund. However, I fear that there may be a few perverse incentives built into new clause 8.

First, if the Government anticipate that they will be responsible for making up for the financial distress of a sport on the listed events regime, that could disincentivise placing such a sport in the regime at all. Further, for the sports themselves, there may be a disincentive to grow beyond a turnover of £50 million, should that mean their Government support is taken away. I am not sure this is best for the health of the regime, or indeed for the sports, as a result. I believe also that the fiscal implications of this new clause more generally need to be analysed before they are committed to.

I would be interested to hear from the Minister, however, what he believes the best way forward is in terms of promoting sports and making them available to the public, while securing the investment needed to secure the future of such sports. It is worth exploring how we strike this balance, and I commend the new clause for bringing the issue at hand to the forefront for discussion as part of the passage of the Bill.

I will briefly address clause 21 as well. The clause updates other sections of the Broadcasting Act 1996 to acknowledge the changed definition of "relevant services" in clause 20. As previously mentioned, the changes made to close the streaming loophole are very welcome—and this clause will support that. Clause 21 also makes clarification about section 99 of the Broadcasting Act, which looks to be relatively straight forward. I am happy to move forward with that in mind.

Sir John Whittingdale: The hon. Member for Aberdeen North rightly highlighted that the issue that the new clause addresses is a matter that the hon. Member for Paisley and Renfrewshire North has been rigorous in pursuing. Indeed, not only have I heard him speak about it in the Chamber; I have also actually met him to hear him put directly his case. I am afraid that we were unable to reach agreement, but I recognise that he feels strongly about the subject. In the grouping which follows this one, we will address the more specific issue which he wants to amend the Bill to cover, which is the inclusion of matches involving the Scottish national team. One of the reasons why we have been resistant to the suggestion—and as I have indicated in a previous debate—is that it is all about establishing a balance. Inclusion of any sport on the listed events regime inevitably means that the potential for raising revenue is diminished, because it excludes a number of broadcasters from bidding for that particular right. It is a question of establishing a balance between the need to raise revenue and the need to ensure that as many people as possible are able to view an event.

The new is clause is quite ingenious in seeking to address that dilemma by asking the Government to set up a fund to compensate rights holders who are subject to inclusion on the list and therefore unable to sell to a non-free-to-air broadcaster. I have to say that that is not something the Government would consider. It would be quite a significant market distortion, and it would be open to potentially a number of other sports or rights holders. What I would say, however, is that sport, as the hon. Member for Aberdeen North is very much aware, is a devolved matter. Should the Scottish Government decide to set up such a fund, they would be free to do so, but I am afraid we are not able to accept the new clause.

Question put and agreed to.

Clause 21 accordingly ordered to stand part of the Bill.

Clause 22

RESTRICTION ON SHOWING LIVE COVERAGE OF LISTED EVENTS

Sir John Whittingdale: I beg to move amendment 8, in clause 22, page 26, line 30, after second "to" insert "the coverage of".

This amendment and Amendment 9 are minor drafting changes.

The Chair: With this it will be convenient to discuss the following:

Government amendment 9.

Clause stand part.

Government amendment 10.

Clause 23 stand part.

New clause 6—*Sporting and other events of national interest*—

"(1) The Broadcasting Act 1996 is amended as follows.

(2) In section 97 (as amended by section 299 of the Communications Act 2003), after subsection (1B) insert—

'(1A) The following events must be included in Group A of the list drawn up under subsection (1)—

(a) the Olympic Games;

(b) the Paralympic Games;

(c) the FIFA World Cup Finals Tournament;

(d) the FIFA Women's World Cup Finals Tournament;

(e) the European Football Championship Finals Tournament;

(f) the European Women's Football Championship Finals Tournament;

(g) the FA Cup Final;

(h) the Scottish FA Cup Final;

(i) the Grand National;

(j) the Wimbledon Tennis Finals;

(k) the Rugby Union World Cup Final;

(l) the Derby;

(m) the Rugby League Challenge Cup Final;

(n) any match involving the national teams of Scotland, Wales, Northern Ireland or England pertaining to qualification for the events listed in paragraphs (c), (d), (e) and (f).'"

This new clause would make it compulsory for the Secretary of State to place the list of sporting events in Group A of listed sporting events, ensuring they are available on free to air television in their entirety. The events consist of all current Group A events plus the home nations World Cup and Euro qualifiers.

New clause 7—*Consultees for sporting and other events of national interest*—

"(1) The Broadcasting Act 1996 is amended as follows.

(2) In section 97(2), after paragraph (b), insert—

'(ba) Seirbheis nam Meadhanan Gàidhlig (the Gaelic Media Service),'

(3) In section 104(4), after paragraph (b), insert—

'(ba) Seirbheis nam Meadhanan Gàidhlig (the Gaelic Media Service),'"

This new clause would add Seirbheis nam Meadhanan Gàidhlig/The Gaelic Media Service to the list of organisations which must be consulted when the Secretary of State is drafting or amending listed events and Ofcom is drawing up its related code of guidance.

Sir John Whittingdale: Clause 22 updates section 101 of the Broadcasting Act 1996 to make specific provision for group B events and to take into account the updated scope of services captured by the regime. That includes TV-like services based both inside and outside the UK providing live content to UK audiences via the internet. We have updated the services in scope of the regime in line with other measures in the Bill that recognise that audience viewing habits and technology have changed significantly in recent years. That has brought all TV-like services, including those delivered via the internet, in scope.

Since publishing the draft Bill in March 2023, we have heard from stakeholders that the approach to widening the scope of services that can qualify may inadvertently harm the ability of PSBs and non-PSBs to work together, in partnership, to deliver multi-sport events to UK audiences. Partnerships help ensure that rights holders can extract maximum value, both in terms of income and access to a broad audience base, while ensuring that all audiences still have access to the most incredible moments of multi-sport events. Where partnerships deliver great outcomes for audiences, we want that to continue. We have therefore introduced the concept of adequate live coverage for events that involve different sports—multi-sport events like the Olympics—and will require Ofcom to set out in regulations what the threshold for this coverage will be.

That is necessary because previously to receive automatic authorisation for live coverage partnerships between PSBs and non-PSBs had to be arranged so that both held the same rights to show coverage on the services in scope of the regime. That concept worked when there were only a handful of TV channels, but it is now outdated in an age when dozens of sporting events can be taking place concurrently and can all be broadcast live across different distribution channels. Ofcom's new regulations on adequate live coverage will set out how this will work in practice and will help to ensure that the regime does not deliver suboptimal outcomes for audiences.

Clause 23 amends Ofcom's existing regulation-making powers in the Broadcasting Act 1996 to take into account the new provision for multi-sport events being added by clause 22. It sets out that Ofcom may make regulations to determine what will be considered adequate coverage. It also updates some language, replacing "televising" with the more general term "coverage". Ofcom will continue to define in regulations what is to be considered to be "live coverage" for group A events and what is to be considered "adequate alternative coverage" for group B events. Currently, its code defines that as highlights and live radio commentary.

Turning to Government amendments 8 and 9, their purpose is to clarify that the restrictions set out in the clause relate to the coverage of a listed event in part or in whole, as was intended. Government amendment 10 makes it clear that Ofcom's regulations on adequate live coverage may also relate to parts of multi-sport events, as well as the whole. For the reasons I have set out, I hope that Members will support those three technical Government amendments and the new clauses—I mean, the existing clauses.

Kirsty Blackman: I am delighted to hear that the Minister might support the new clauses. That would be amazing, if he were able to do so. At the end of the previous conversation, the Minister mentioned sport being devolved in Scotland, which is the case. However, broadcasting is reserved. Should the Minister wish to devolve broadcasting, we would support such an amendment, so that we could take our own decisions and would not need to stand here having this discussion about our new clauses.

I will speak to new clauses 6 and 7 on the live coverage of listed events. New clause 7 would amend the Broadcasting Act to ensure that the Gaelic Media Service is on the list of organisations that must be consulted when the Secretary of State is drafting or amending listed events or guidance, and when Ofcom is drawing up the code of guidance. I do not think it is unreasonable for us to ask for the Gaelic Media Service to be included. I hope that if the Minister is unwilling to accept the amendment, which is often the case, he will give consideration to ensuring that the service is one of the consultees, whether or not that is written into legislation.

New clause 6 focuses on sporting and other events of national interest. The Minister is absolutely correct that a significant part of the point that we are making is about being able to watch our football team play. It is about having a level of parity for people in Scotland, because as I have said football is part of our national culture. My daughter has been playing football since she was three. It is something in the blood of many Scots people, and seeing our team take part and qualify for something is amazing. The problem, however, is that too many people were not able to see our team qualify or watch those matches, because of the lack of availability as a result of the lack of listing of the event.

The issue is the listing, the fact that the home nations are not included—the home nation games to qualify for the FIFA World cup finals, the women's World cup finals, the European football championship finals or the European women's football championship. Currently, we do not have the proposed new paragraph (n) that we suggest in new clause 6. It would ensure that all the games involving the national teams of Scotland, Wales, Northern Ireland or England pertaining to qualification for the events listed would be included in group A.

I am sure that the Minister has looked at the list of events. I guarantee that more people care and know about Scotland qualifying, or Wales qualifying, for any of those events than even know what the Derby is. The Derby does not have the same level of national importance—it does not have the same place in national consciousness. People know what the grand national is, but the Derby is way further down people's lists of priorities. The Minister and the Government have the listings, or some of them, slightly wrong. We do not have the level of access to watch those events live that we should. It is not too much to ask for listing as a group A event all the home games—to qualify for those tournaments—of all the nations of the UK.

I have mentioned this already, but I just want to be clear that we are also including women's football in this list because of the massive rise in the number of people

who are keen to watch women's football, as well as the massive rise in the numbers of women and girls playing football. I will make one last pitch for the women's parliamentary football team, which is truly excellent, should any women who work in or around Parliament wish to take part, having seen the Lionesses perform. We are not quite at their level, but we do have an awful lot of fun when we play, so I would thoroughly recommend that people take part in that. I know that more people are taking part because of being able to see their teams perform in this way. It is not just the fact that we can all go to the pub, have a drink and watch our team play; it has an impact on participation levels in sport.

4 pm

Clive Efford (Eltham) (Lab): Has the hon. Lady consulted any of the bodies involved in her proposal as to whether they welcome being listed in the way she has proposed? I know from discussions with some bodies that they are concerned, as has been pointed out previously, about their capacity to raise revenue for their sport. There is always a consequence when we set out—even with the best intentions—to do something like wanting greater coverage for football, as in this amendment, which I do think is laudable. If the hon. Lady has consulted those people, what was their view?

Kirsty Blackman: Those organisations have been consulted. My hon. Friend the Member for Paisley and Renfrewshire North has been clear on the roundtable discussions he had, including with the Scottish Football Association, which is open to this happening. New clause 8, on the financial support fund, which we discussed previously, was partly to ensure that those smaller organisations are able to claim back, should they lose out on a significant amount of revenue as a result. As I say, these organisations have been consulted, and the SFA is open to this happening.

It is important to ensure that organisations have enough money to invest in their sport. I do not think there will ever be any lack of young men keen to play football; the number certainly does not appear to have reduced in all the years I have been alive. There are still many children at my kids' school who are very keen to get involved in football. There are still the grassroots structures there. However, I agree that for organisations involved in women's football, for example, or involved in nations with lower levels of participation, it may be an issue.

I would be very keen to press both new clauses 6 and 7 to a vote when it comes to that point.

Stephanie Peacock: I begin by echoing the comments of the hon. Member for Aberdeen North on the women's parliamentary football team, having been involved a little over the years. I will address clauses 22 and 23, as well as the associated amendments. It appears from the Government's explanatory notes on these clauses that their intention is to ensure that partnership arrangements between qualifying and non-qualifying broadcasters on providing coverage of listed events continue as they do now.

I know that many of our commercial and public service broadcasters alike feel they have strong partnerships that allow sporting events to be shown to as many viewers as possible. Indeed, where an event is not on the listed events regime, this kind of commercial partnership is inevitably even more common; for example, Channel 4 has historically teamed up with Sky to show Formula 1 events to many viewers across the UK. These kinds of cross-industry partnerships are integral to the overall ecosystem of sports rights, and I therefore support any movement that seeks to protect these relationships and dynamics.

However, the BBC has raised concerns that clauses 22 and 23 together could undermine the listed events regime, in particular with regard to multi-sport group A events—the summer Olympics and Paralympics and the winter Olympics and Paralympics. In effect, the BBC says the clauses could potentially mean that Ofcom consent is not required for events where there are partnerships such as the BBC and Discovery deal for the Olympics, as long as each partner has adequate live coverage, which lowers the bar from the current expectation of having full and comprehensive rights on both sides. How much that bar is lowered is difficult to gauge. However, given that the Bill does not define what adequate will mean in this context, it only opens the door for live coverage and adequate coverage to be defined. It would be most unfortunate if a Bill that aimed to modernise and protect the listed events regime inserted a change that, in effect, allowed for exclusive rights to parts of the Olympics to be held behind a paywall.

I therefore ask the Minister for a clear indication of what "adequate" is now to be defined as under these new clauses. Further, why were these changes not included in the original drafting, and for what specific purpose did the Government choose to introduce them today? There was a detailed scrutiny process through the Culture, Media and Sport Committee, and it would have been beneficial for these additional clauses on the listed events regime to be analysed by those who know the regime best. If we cannot be absolutely clear on the real intent behind this clause and the impact that it will have on the listed events regime, it will be difficult to support it at this stage.

Let us move on to new clause 6. I hope that by this point it is clear that I am a strong supporter of the listed events regime. It is important in ensuring that British audiences are able to view moments of national sporting importance. However, many Scottish campaign groups and Scottish Members have been long discontented that the definition of such national moments did not seem to encompass crucial events that define their national sporting story. I am aware that these feelings are likely to be echoed by those in Wales and Northern Ireland, too, and I want to be clear that I believe the regime must not be overtly discriminatory in this sense. There has been particular concern over the lack of a formal plan to encourage making Scottish international football free to watch, something which may seem counterintuitive given the intent of the listed events regime. I understand that the new clause hopes to address this issue and to create equality of access to qualifying events for every UK nation.

When considering additions to the listed events regime, however, there is always a careful balance to be struck. It is important that sporting moments are available to watch, but is also important to secure investment in sports through the revenue generated by selling rights. The fact that the number of events in the regime is limited is indicative of the need to recognise that.

[Stephanie Peacock]

I also want to highlight the fact that the listed events regime is not the only method of ensuring that sports are available on a free-to-air basis. As I mentioned when praising commercial partnerships, it was extremely pleasing to see Sky and STV come to a formal agreement that allowed Scots to watch the World cup qualification play-off final. That was a truly beneficial outcome that did not rely on the structure of the regime.

Has the Department thought about the definition of a moment of national sporting importance? It is a fluid concept given changing public attitudes, and it is further complicated by the fact that inclusion in the regime can bolster the status of an event in the public consciousness. However, I think that there will be many more cases in which an argument is made for an event to be added to the regime, and there could therefore be merit in knowing the criteria that events are judged against when considering whether they should be included in the regime.

Finally, I would like to speak to new clause 7. As per section 97 of the Broadcasting Act 1996, the Secretary of State is required to consult

"(a) the BBC,

(b) the Welsh Authority,

(c) the Commission"

and rights holders before drawing up or revising listed events. I understand the intent behind that clause, especially given that many argue that Scottish football and sport has not been duly incorporated into the listed events regime.

Further, we have also discussed at length the desire to improve parity across broadcasting legislation between S4C and Gaelic language services. With that in mind, I believe that there would be benefits to broadening consultation requirements, so that the Gaelic viewpoint can be better taken into account when amendments to the list are being considered.

We could do with more clarity on how decisions about inclusion in the listed events regime are made. There would be a better sense of the fairness of such decisions if requirements to consult those who may be impacted by such a decision were expanded. In fact, the scope of this could have been broadened even further to require consultation with other relevant persons that the Secretary of State deems necessary. That could have perhaps included the other PSBs or relevant stakeholders, such as sporting bodies.

I do not wish to make additions to the listed events regime more onerous than they need be. However, having strong and varied input into decision making would certainly save time in the long run. I hope it is clear that I understand the intent of new clauses 6 and 7, but that I will need answers to my questions on clauses 22 and 23.

Sir John Whittingdale: First, I welcome the support in principle of the hon. Lady for partnerships. They play a very important role in ensuring that iconic events are shown free to air even if they are not necessarily listed events. The one example that I can recall is Emma Raducanu's US Open final, which certainly was not one of the listed events. Nevertheless, Amazon made it available to Channel 4, because clearly there was huge demand to watch it. Those kinds of partnerships play a very valuable role.

Regarding the definition of adequate live coverage, which the hon. Lady raised, and how Ofcom will define it, it is certainly not the intention of the new clauses to reduce the threshold. However, in terms of setting parameters as to what is adequate live coverage, that is a question for Ofcom, which has a lot of experience in this area, and it includes setting the standard for adequate alternative coverage for group B events, as well. In doing so, Ofcom would consult widely with stakeholders and analyse what metric works best to balance the interests of audience, broadcasters and rights-holders, and it can look at previous partnership deals to see how such partnerships have been arranged in the past. There are a number of different factors that are taken into account, but it is a matter for Ofcom to determine.

Stephanie Peacock: Before the Minister moves on, could he perhaps elaborate and let the Committee know why these new clauses were not included in the original drafting and say what the specific reason is for their being included now?

Sir John Whittingdale: I cannot say specifically why they were not included earlier, although I have tried to set out why we think it is important that they should be included now. We will provide any additional information that we can provide in writing to the hon. Lady and to the rest of the Committee.

Regarding the support from the hon. Members for Aberdeen North and for Barnsley East for women's football, there is no question that the increased popularity of and demand for women's football has been enormous. Both hon. Members will be aware that the most recent changes to listed events were to include the FIFA Women's World Cup finals and the European Women's Football Championship finals on the list. I was not sure whether the hon. Ladies were suggesting that the parliamentary women's football team should be put on that list, too. I am sure that the idea has considerable support, even if that team has not reached the iconic level quite yet.

I am also quite sure that the Opposition welcomed the recent announcement by my right hon. Friend the Secretary of State for Culture, Media and Sport of the £30 million Lionesses fund, which will be invested in grassroots women's football. Hopefully, it will enable us to reach even greater heights than we have already reached.

I turn specifically to new clauses 6 and 7. New clause 6 is ingeniously phrased, but I understand the frustration of the hon. Member for Aberdeen North regarding coverage of the home nations. Of course the matches involving the England football team, and indeed the matches involving the Welsh football team, are available free to air— through S4C for the Welsh team—but it is harder to find coverage of the Scottish national team and indeed the Northern Ireland national team.

The only thing I would say to the hon. Lady is that inclusion on the list does not mean that events will be broadcast free to air; indeed, it does not mean that they will be broadcast at all. That is a matter for the broadcasters to determine. We have already debated the difficulty of balancing the need for audience accessibility with the need for revenue-raising. At the end of the day, however, it will remain a matter for the broadcasters to decide, as they do in England and Wales, as to whether or not they wish to bid for the right to cover the Scottish team. I am afraid that new clause 6 would not achieve that, because it remains a matter for the broadcasters to decide.

Turning to new clause 7, the Government believe that, as I say, regional and minority language broadcasting has an important role to play, providing an opportunity for speakers of minority languages to access them. Currently the Secretary of State does consult the BBC, S4C, Ofcom and relevant rights holders when revising the list of events protected under the listed events regime.

The BBC and S4C are of course licence-fee-funded public service broadcasters. Although the current legislation does not require the Secretary of State to consult other affected broadcasters, it does not restrict them from doing so. If updates to the list were to be proposed, my right hon. Friend the Secretary of State would of course listen to all relevant representations. We therefore do not feel there is any need to list out any additional organisations who may or may not have an interest in particular changes. I am afraid that we are unable to accept new clauses 6 and 7. I urge the Committee to accept Government amendments 8 to 10, and to agree to clauses 22 and 23 standing part of the Bill.

4.15 pm

Kirsty Blackman: If the Secretary of State were to update the list of statutory consultees, I would appreciate his being made aware of this interaction and the fact that the Gaelic Media Service should be considered for inclusion. I understand the Minister's point that the Secretary of State will consult more widely than with just those that are statutory consultees. I appreciate that, but I would make a pitch that the Gaelic Media Service should be included and should be consulted. Whether or not it is put on a statutory basis, it would be sensible to speak to it about it.

On matches involving the national teams of Scotland, Wales, Northern Ireland and England, the Minister is right: having them included in the listed events does not mean that a match will be shown. It does not mean that it will be shown free to air or that people will be able to access it, but it increases the likelihood that we will be able to watch our national football team play incredibly important games that mean a significant amount to massive numbers of the population. We would be more likely have the opportunity to see those games without having to pay Viaplay or whoever £180 a year to do so. The reality is that this is unfair, and it is unfair for Northern Ireland as well. We should be able to access these things and see our teams playing.

The Derby had 1.6 million viewers it this year, which is about the same number as viewed Celtic v. Rangers. If the Derby is of UK-wide importance with only 1.6 million people choosing to view it, presumably Celtic v. Rangers is also of national importance, although I suggest that that is not quite as important as having a Scottish national team playing on TV.

There is an asymmetry in relation to some of the choices being made. Ensuring that the Derby is on television does not encourage grassroots participation in the sport. As far as I am aware, young girls who ride horses are going to continue riding horses whether or not they are able to watch the Derby on television. We are not going to stop children being obsessed with ponies, no matter whether or not it is on TV. Horseracing does not inspire, as far as I am aware, young people to take part in grassroots sport.

However, watching the Scottish national team or our Scottish women's team play football on TV, or watching the Welsh team play football on TV, will encourage people to take part in those grassroots sports and be able to think that that is something they can aspire to. If that was the key aim, accepting the amendment would be incredibly important.

The key aim is not necessarily access to grassroots sports, though. For us this is a significant part of our cultural heritage. We want to be able to see our team play football. It is part of the culture in Scotland and we cannot currently do that because of the level of unfairness in the system. Were there an increase in the likelihood of us being able to view it on free to air because it was listed, that would be positive and would show that the Government cared about ensuring that we are all able to watch our teams play football, rugby, or whatever sport it happens to be. In this instance, it is football, and men's football as well.

Sir John Whittingdale: I would just say to the hon. Lady that the list will be kept under review. I note her hostility to the inclusion of the Derby on the list, although I am not sure it would have been shared by a former leader of her party, who, as I recall, was a keen fan of horseracing. It is not a matter of unfairness. Scotland is not singled out as not being included on the list of events. None of the home teams are on the list. It is a matter for the broadcasters that they have chosen not to bid for the rights to show matches involving the Scotland team. I am afraid that, at the moment, the Government consider the listed events to be appropriate and we have no intention of changing them at this time. I regret that we are unable to accept her new clause.

Amendment 8 agreed to.

Amendment made: 9, in clause 22, page 26, line 31, after "to" insert "the coverage of".—*(Sir John Whittingdale.)*

See explanatory statement to Amendment 8.

Clause 22, as amended, ordered to stand part of the Bill.

Clause 23

REGULATIONS ABOUT COVERAGE OF LISTED EVENTS

Amendment made: 10, in clause 23, page 27, line 11, leave out "of an event".—*(Sir John Whittingdale.)*

This amendment makes clear that regulations under section 104ZA(1)(aa) of the Broadcasting Act 1996 (inserted by clause 23) may also relate to cases about the coverage of part of a multi-sport event.

Clause 23, as amended, ordered to stand part of the Bill.

Clause 24

PROVISION OF INFORMATION

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Government amendment 11.

Clause 25 stand part.

Sir John Whittingdale: Clause 24 makes amendments to extend Ofcom's existing powers to gather information and, if necessary, undertake enforcement action to reflect the changes made in clauses 20 to 23. Without these new powers, Ofcom would not be able to enforce the regime against the extended list of services brought in scope by the Bill. The clause amends section 104A of the Broadcasting Act 1996 to create a new power for Ofcom to require providers of the services in scope of the listed events regime and, in limited circumstances, certain other persons to supply it with any information it requires to carry out its functions in relation to listed events. It also creates a new section 104B that sets out the penalties that may be applied for failure to provide information.

Clause 25 is a saving provision for clauses 20 to 23. It ensures that contracts that have already been agreed before the introduction of the new provisions will not be affected. Any contract entered into prior to the commencement of the new provisions will be governed by the old listed events regime. That ensures certainty for deals that have already been concluded.

Government amendment 11 is needed to ensure that the existing list of events, as published on gov.uk, is revised into groups A and B. It replicates transitional provisions contained in the Communications Act 2003 that mean that the existing list will otherwise be preserved without need for consultation. While provision was made for this division in the Communications Act, for some reason, relevant sections have not been commenced. The Government's overarching objective for the listed events regime is to ensure that key sporting events are widely available and free to air for all audiences, particularly those who cannot afford to watch sport behind a paywall. As has already been debated, rights holders use income for the benefit of the wider sporting sector, so it is important for the regime to strike the right balance.

The Government believe that the current list of events works well to deliver the best outcome and that it strikes an appropriate balance. The amendment requires the Secretary of State to revise the list into groups A and B but provides that, so long as the list remains the same—other than the division into groups A and B for the purposes of the legislation—there will be no need to consult in relation to that list. For reasons I set out, I hope that Members can support this amendment.

Stephanie Peacock: As I have mentioned more than once during this group of clauses on listed events, I am pleased to see that the Government have taken action to close the streaming loophole in the listed events regime. However, bringing into scope those who are not licensed by Ofcom will mean that Ofcom needs new powers to enforce this regime against new providers. I am therefore supportive of clause 24, which provides Ofcom with such powers, including the ability to require information and impose penalties where failures occur.

Clause 25 ensures the legality of contracts agreed before the introduction of this Bill. This sensible clause will minimise disruption and provides clarification and certainty for all involved.

Finally, I understand that Government amendment 11 requires the Secretary of State to categorise the listed events into groups A and B. I wonder therefore if we could hear from the Minister how the Secretary of State intends to use this power, and whether this will be limited to what is essentially a tidying up of the legislation. With that answer in mind, I would be very happy to support and move on.

Sir John Whittingdale: I am grateful to the hon. Lady for her indication of support. Essentially, my understanding is exactly that: the division is in effect already there and it had to be formalised through this clause.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Clause 25

SECTIONS 20 TO 23: SAVING PROVISION

Amendment made: 11, in clause 25, page 29, line 34, at end insert—

"(2) On the date on which section 21 comes into force, the Secretary of State must revise the list maintained for the purposes of Part 4 of the Broadcasting Act 1996 in order to allocate each event which is a listed event on that date either to Group A or Group B.

(3) Where—

(a) the events listed in the list in force immediately before the Secretary of State revises it under subsection (2) are treated, for any of the purposes of the code in force under section 104 of the Broadcasting Act 1996 at that time, as divided into two categories, and

(b) the Secretary of State's revision under subsection (2) makes the same division,

section 97(2) of the Broadcasting Act is not to apply in relation to that revision of the list.".—*(Sir John Whittingdale.)*

This amendment requires the Secretary of State to revise the list of sporting and other national events so as to divide them into Group A and Group B events. It disapplies the requirement for consultation in section 97(2) of the Broadcasting Act 1996 if the division follows the division into Group A and Group B events by reference to which OFCOM's code under section 104 of the 1996 Act operates at that time.

Clause 25, as amended, ordered to stand part of the Bill.

Clause 26

Public teletext service

Question proposed, That the clause stand part of the Bill.

Sir John Whittingdale: Clause 26 ensures that our legal framework is up to date—I have to say this with a degree of nostalgia—by removing the now obsolete legal provision for a public teletext service. This is achieved by repealing sections 218 to 223 of the Communications Act 2003, which established such a service. I can remember consulting Teletext and Ceefax on many occasions, but I am afraid that it has now passed into the mists of time.

Rob Butler: Will my right hon. Friend take this opportunity to pay tribute to all those journalists who worked on teletext services, both at the BBC and ITV? When I worked on business television programmes at the BBC, there was a very small team of three people who worked on the business pages of Ceefax. They were extremely diligent and they frequently updated the news faster than we could to get it on the air.

Perhaps, as we mourn the loss of teletext services, we can pay tribute to all those who worked very hard to not only bring us great information but to create some of the most unbelievable graphics on television that people might ever have experienced without any artificial simulation. I am particularly fond of the reveal button that, as Advent wore on, used to show a new little

Christmas or festive picture each day. Perhaps this is a good moment in the season of Advent to recall those moments and pay tribute to all those who were involved in providing those great services.

Sir John Whittingdale: I am very happy to join my hon. Friend in paying tribute to the journalists who made Teletext, for a time, such an essential service in keeping the nation updated with news as it happened. Indeed I do recall—

Kirsty Blackman *rose—*

Rob Butler: You're too young!

Kirsty Blackman: I am absolutely not too young. I spent an awful lot of hours—far too many hours—playing Bamboozle! on Teletext. I wonder if the Minister would also pay tribute to the fact that Teletext was actually a genius idea. The concept and the way that it was delivered was just brilliant. In addition to the team that worked on it, its creation was completely phenomenal and was incredibly impressive—it changed our lives for the better.

4.30 pm

Sir John Whittingdale: I am very happy to join the hon. Lady in paying tribute to the huge number of benefits that Teletext brought for quite a considerable length of time. It was not just news that could be accessed via Teletext; I understand that one of my colleagues booked her holiday regularly through Teletext. I think there was even a dating service that was provided by Teletext for a time. All these things are now available online in perhaps a little more sophisticated form than was originally the case.

I am afraid it is the case that the most recent public teletext provider ceased to provide a service in 2009, and its licence was revoked in 2010. Therefore, in accordance with the intention of this Bill to modernise the legislative framework and to take account of the changes in the broadcasting landscape, I am afraid I must ask the Committee to support that clause 26 stand part of the Bill.

Stephanie Peacock: This clause repeals provisions in the Communications Act 2003 regarding teletext, due to it no longer existing. I would like to echo the Minister's nostalgia, and also thank everyone who invented it and worked on it. I must take this opportunity to say that my dad was an avid user of teletext. Right until it closed, he would phone me up and be like, "It's not really going to close, is it?". He would always check his weather and his traffic. I feel like I should put that on the record, because people like my dad across the country relied on it. While he might, I do not take any issue with this clause in particular. It would be remiss of me not to reiterate how important it is that information and services are available to everyone, including those who are older, those who have disabilities, and those without the internet. While we remove old services, it should serve as a reminder to all of us to ensure new services are as universally accessible as possible.

Sir John Whittingdale: I commend the clause, with sadness.

Question put and agreed to.

Clause 26 accordingly ordered to stand part of the Bill.

Clause 27

FURTHER AMENDMENTS RELATING TO PUBLIC SERVICE TELEVISION

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Clause stand part.

Government amendments 16 to 18.

Schedule 2.

Sir John Whittingdale: This clause and the Government amendments to it are technical in nature and I hope will not detain the Committee for long. Clause 27 introduces schedule 2, which makes amendments to broadcasting legislation to maintain operability of that legislation in light of the changes in part 1 of the Bill that we have already debated. For example, many of these amendments are intended to remove redundant references to the public teletext services from the 2003 Act. Government amendments 16 and 17 correct references to provision added by clause 20. If this were not taken forward, schedule 2 would incorrectly refer to the incorrect type of relevant service.

Government amendment 18 is essentially a tidying-up exercise. It removes transitional provisions that related to section 300 of the Communications Act, which was never brought into force and is now being repealed by this Bill. Government amendment 11 adds replacement transitional provisions. On this basis, I hope the Committee will support clause 27 and the Government amendments to it.

Stephanie Peacock: I believe the changes in schedule 2 and clause 27, as well as Government amendment 18, are consequential on the larger adjustments made in part 1. I have had no specific concerns about these changes drawn to my attention, so I am happy to move forward. I refer members of the Committee to my remarks throughout the discussion on the rest of part 1. I am also glad to see some mistakes corrected through amendments 16 and 17.

Question put and agreed to.

Clause 27 accordingly ordered to stand part of the Bill.

Sir John Whittingdale: On a point of order, Mrs Cummins. If I may make a small correction, I understand that when we were debating the listed events earlier, I said that it excluded bidders if the event is listed. It is not the case that it excludes non-PSBs from bidding, but they may be inadvertently precluded from doing so.

The Chair: I thank the Minister for that clarification.

Schedule 2

PART 1: FURTHER AMENDMENTS

Amendments made: 16, in schedule 2, page 121, line 37, leave out "98(7)(e)" and insert "98(7)(g)".

This amendment and Amendment 17 correct references to provision added by clause 20.

Amendment 17, in schedule 2, page 121, line 38, leave out "98(7)(e)(iii)" and insert "98(7)(g)(iii)".

See explanatory statement to Amendment 16.

Amendment 18, in schedule 2, page 126, line 33, at end insert—

"64A In Schedule 18 (transitional provisions), in paragraph 51 (listed events rules), omit sub-paragraphs (4) and (5).".—*(Sir John Whittingdale.)*

This amendment repeals provision that relates to amendments made by section 300 of the Communications Act 2003. Section 300 has not been brought into force and is being repealed by this Bill.

Schedule 2, as amended, agreed to.

Ordered, That further consideration be now adjourned.—*(Mike Wood.)*

4.35 pm

Adjourned till Thursday 7 December at half-past Eleven o'clock.

Written evidence reported to the House

MB 01 British Board of Film Classification
MB 02 ITV plc
MB 03 David Wolfe KC
MB 04 News Media Association
MB 05 The group of Mebyon Kernow—the Party for Cornwall councillors on Cornwall Council
MB 06 The local TV sector
MB 07 Broadcast 2040+ Campaign
MB 08 BBC
MB 09 Radiocentre
MB 10 Netflix
MB 11 Press Recognition Panel
MB 12 Paramount
MB 13 COBA
MB 14 Pact
MB 15 techUK
MB 16 Service List Registry