Foreword

1. The Welsh Cabinet welcomes the Government’s publication of a White Paper on this important topic. This paper summarises our comments and our suggestions for the Government’s proposed new primary legislation ("the Bill").

Summary of our Comments

- We recommend that the 3 tests to be met before analogue TV is switched off should be assessed in relation to the UK’s constituent parts, including Wales. Depending on the scheme of the Bill, the Bill might provide for this.

- We recommend that the Bill should require OFCOM to keep under review the availability of competing TV platforms in different local areas.

- We look to the Bill to give OFCOM all necessary powers to create a Universal Service Fund.

- We recommend that the Bill should require OFCOM to operate within a structured and strategic framework for spectrum disposal. OFCOM should be required to reserve sufficient spectrum for public service broadcasters.

- We recommend that the Bill should give OFCOM all necessary powers to push forward the pace and extent of subtitling, and other means of access for people with disabilities.

- We support the expansion of advanced telecommunications infrastructures in Wales. We recommend that the 28GHz spectrum in Wales be made re-available for bidders as quickly as possible. We stress the need to ensure that there are bidders for Wales in the forthcoming auction of 3.4 and 10GHz licenses. We note and are supporting the expansion of ADSL coverage in Wales.

- We echo the white paper’s reassertion of the value of public service broadcasting, and
believe that adequate funding is essential to maintaining current public service provision for Wales

- We ask the Government to examine with care the situation in all parts of Wales in respect of reception of Wales’s national TV stations. A range of possible solutions should be examined.

- We recommend that the Bill should give OFCOM a specific duty to set targets for production in the UK nations and England’s regions.

- We recommend that the Bill give OFCOM a statutory duty to consult the UK’s devolved institutions.

- We recommend that the Bill provide for a Member for Wales on the Board of OFCOM; a Welsh member on the Consumer Panel; and establish a Welsh Advisory Committee on Communications.

Background

2. The National Assembly does not have devolved responsibility for the main areas covered by the White Paper. However, the broadcasting and communications field is of great importance to Wales, for both economic and cultural reasons. Wales has a unique broadcasting ecology in its two languages, which includes its two publicly-funded broadcasters, BBC Wales and S4C. Cardiff is the largest centre of broadcasting expertise in the UK outside of London. Much of the UK’s production of digital set-top boxes and digital televisions is located in Wales.

3. New technology will soon make it commonplace for people to watch TV through a mobile phone and to access the internet via their TVs. The Government says in its White Paper that its aim is to ensure wide access for people in the UK to a choice of diverse and high quality communications services. The Government states that it wants a dynamic and competitive communications market in the UK, while at the same time protecting the interests of citizens and consumers. For this new communications environment, the Government proposes to streamline regulation, and to replace 5 existing agencies (OFTEL, the Independent Television Commision, the Radio Authority, the Broadcasting Standards Commission and the Radiocommunications Agency) with a new, single regulatory body, OFCOM.

4. The matters on which we wish to comment in particular are concerned with:

- the need to make digital communications services available and accessible to all the people of Wales

- the value of maintaining public service broadcasting, including national services for
OFCOM’s structure and its links with Wales

The new communications environment in Wales

5. Some of the key features of the new communications environment in Wales are as follows:

- Initial growth of **Digital TV** is promising. Take-up has grown faster than in the UK as a whole, and is currently estimated at 28% of households (UK figure is 20%). New programme services, including S4C Digital, BBC Choice Wales, S4C2 and the Wales Digital College, have expanded broadcasting provision for Wales.

- However, the availability of the three **platforms** for digital TV (terrestrial, cable and satellite) is uneven. The full six-multiplex service of digital terrestrial TV is available to only 42% of households (projected to rise to 56% by end 2001). For many homes (especially in the Valleys and much of rural Wales) digital satellite is at present the only available option. Cable TV is available in the main urban centres of the South, but in North Wales there is little sign of industry interest in cabling even the larger towns.

- Widespread reception of **TV from England** remains a matter of concern – with up to 40% of Welsh homes estimated to receive English signals, for both historical and technical reasons.

- Last autumn there was an auction of 28Ghz **Broadband Fixed Wireless Access** Licences. No bids were received for Wales (although this situation was not unique to us). Access to the 28Ghz spectrum would provide fast internet and multimedia access via radio.

- 20% of our population currently has **internet access**. This figure continues to grow, but remains well below the UK figure of 32%. 83% of **businesses** in Wales in 2000 had access to the Internet. Whilst this is a significant increase on the 1999 position, Wales still lags behind the rest of the UK.

Detailed comments on the White Paper

1. THE NEED TO MAKE DIGITAL COMMUNICATIONS SERVICES AVAILABLE AND ACCESSIBLE TO ALL THE PEOPLE OF WALES
Tests to be met before Switch-Off of Analogue TV

6. We agree with the three tests previously announced by the Secretary of State for Culture, Media and Sport and noted in the white paper after para 3.3.3, namely:

- everyone who can currently get the main public service broadcasting channels in analogue form should be able to receive them on digital systems
- switching to digital should be an affordable option for the vast majority of people; and
- 95% of consumers should have access to digital equipment

7. We recommend that these 3 tests should be assessed specifically in relation to Wales, at the appropriate time. This would be a way of guarding against any possibility of there being disproportionate numbers of households in Wales which do not meet the tests, by comparison with elsewhere in the UK. A Welsh Advisory Committee of OFCOM - which we suggest the Government should establish - could help assess the 3 tests in Wales. If the 3 tests are to be set out in the Bill, we recommend that the Bill provide for the tests to be assessed in relation to the constituent parts of the UK, as well as in the UK as a whole.

Competition as to digital TV platforms

8. The Government has set an objective of ‘Developing and sustaining a dynamic market’ in communications (para 2.2.1). We suggest that the availability of different digital TV platforms (terrestrial, cable, satellite and such others as may emerge) within individual localities should be examined further by the Government and OFCOM in this regard. The availability at present of only one platform (satellite) in large parts of Wales appears to us to raise issues about competition, access, and actual and potential costs for viewers and public service broadcasters. We recommend that the Bill should require OFCOM to keep under review the availability of TV platforms in different local areas.

Universal Service Fund for communications

9. We welcome the Government’s commitment (at para 3.7) to ensuring that telephone services which are used by the majority, and are essential to full social and economic inclusion, are made available to everybody on reasonable request, at an affordable price. Both BT and Kingston Communications are subject to universal service obligations and these obligations are a valuable safety net for those on low incomes and living in remote areas. We note that research and monitoring will be conducted annually to consider penetration figures for new, higher levels of service and whether inequalities are occurring. If this proves to be the case, a possible way of addressing it could be through an extension to universal service obligations. If this leads to significant net costs for universal service providers, OFCOM will
have the ability to create a Universal Service Fund to share amongst all operators the costs of meeting the increased obligations. If this occurred, there could be significant benefits for Wales, parts of which are currently economically unattractive to operators looking to roll out advanced services.

10. We therefore look to the Bill to give OFCOM all necessary powers to create a Universal Service Fund.

Managing the Radio Spectrum

11. The White Paper proposes that OFCOM should take on (from the Secretary of State) responsibilities for spectrum management. It will manage non-military use of the radio spectrum, and authorise and license broadcasting and telecommunications services and other activities. It will reduce the regulatory burden upon communications operators by enabling them to use, in many cases, general authorisations rather than individual licenses.

12. The radio spectrum is the prime raw material of the new telecommunications media. It is used for terrestrial and satellite broadcasting, mobile telephony and fixed wireless access. The arrival of digital networks will make it possible to deliver far more content over the same spectrum however, for the time being spectrum is a scarce resource. Work suggests that the strongest growth in demand for spectrum will come from mobile communications.

13. We recommend that the Bill should require OFCOM to operate within a structured and strategic framework for spectrum disposal. In particular, we are concerned to protect spectrum availability for public service broadcasters in Wales. We recommend that the Bill should require OFCOM to earmark sufficient spectrum for public service broadcasters.

Access for people with disabilities

14. We welcome the commitment in the White Paper (at para 7.6) to require OFCOM to give due weight to improving access to communications services for people with disabilities. In particular, we support the commitment to extend and improve provision for subtitling, signing and audio-description on TV. Subtitling is not yet provided for all programming on the public service channels, and there is very little provision on most cable and satellite services. We recommend that the Bill should give OFCOM all necessary powers to push forward the pace and extent of subtitling, and other means of access for people with disabilities.

Broadband Fixed Wireless Access and similar technologies

15. The 28GHz auction in the autumn produced no bids for Wales. We recommend that the 28GHz spectrum be made re-available as quickly as possible. At the same time, we note that a range of other technologies can provide advanced telecommunications services. We are


**ADSL** (which has similar capabilities as 28 Ghz BFWA, and to approximately the same distance) is already available in Bridgend, Llanelli, Caerphilly, Swansea and most parts of Cardiff. It is due to be available in Newport, Gorseinon, Kenfig Hill, Morriston, Neath, Port Talbot and Porthcawl this Spring. In addition, it will be made available in Aberystwyth, Bangor, Caernarfon, Denbigh, Haverfordwest, Holyhead, Llandudno, Newtown and Pembroke as part of Strand 6 of the Llwybr Pathway project. The Strand 6 project is a public/private initiative involving BT and the WDA and strongly supported by the National Assembly and European Commission.

16. The forthcoming award of **3.4** and **10Ghz** radio licenses could make further advanced telecommunications services available in Wales. Licenses for this spectrum are expected to be awarded in May. **We stress the need** to ensure that there are bidders for the licenses available which cover Wales.

**THE VALUE OF MAINTAINING PUBLIC SERVICE BROADCASTING, INCLUDING NATIONAL SERVICES FOR WALES**

17. **We echo** the white paper's reassertion of the value of public service broadcasting. We believe that the Welsh-based public service broadcasters (BBC Wales, HTV Wales and S4C) have contributed enormously to public life in Wales, and continue to do so. We believe that adequate funding for S4C from the UK Government, and for the BBC through the licence fee, is essential to maintaining the provision which Wales currently enjoys.

18. **We welcome** the Government’s reassertion in **para 4.4.9** of the importance of S4C’s service in Welsh. **We believe that broadcasting in Welsh, by S4C, BBC Wales and others, plays a major part in supporting the Welsh language and maintaining its use. We applaud the Government’s decision against privatisation of Channel 4.**

‘**Intended**’ Programming

19. **We welcome and underline** the importance of the principle in **para 3.3.2** that, as far as reasonably practicable, people should be able to "receive the regional programming intended for their community". **We note that the Government intends to initiate discussions with relevant broadcasters on this issue, and we ask the Government to examine with care the situation in all parts of Wales in this regard.**

20. **In our view, there are a number of solutions which need to be examined**:

(a) **on digital satellite TV, BBC Wales and S4C have already made effective arrangements to ensure that their services are supplied to homes with Welsh postcodes. The Government**
should support the maintenance of these arrangements, and their extension to HTV Wales, if and when Channel 3 becomes available on digital satellite.

(b) in areas where digital terrestrial TV is available, the availability of digital signals from Welsh transmitters may need to be marketed - so that everyone understands that, for instance, both Channel 4 and S4C are available from Welsh transmitters. Ways of persuading people to redirect existing aerials (which may entail expense and inconvenience for them) should be examined by Government.

c) a possible alternative, should such marketing initiatives fail, would be for the Government to consider the option, after analogue switch-off, of transmitting Welsh digital signals from Mendip, Ridge Hill, Wrekin and Winter Hill transmitters (using spectrum freed up by switch-off). A somewhat similar position exists already with the broadcasting of Scottish services from the Sandale and Caldbbeck transmitters in England.

Production Targets for Nations and Regions

21. We welcome the indication in para 5.7.1 that OFCOM should set and monitor targets for production in the nations of the UK, and England’s regions. We recommend that such targets should relate to production for the UK-wide networks, as well as productions for purely local audiences. We are pleased to acknowledge here the commitment already demonstrated by the BBC to investing in increased production by BBC Wales, both for Welsh audiences and for UK-wide consumption. We recommend that the Bill should give OFCOM a specific duty to set targets for production in the nations and regions.

OFCOM’S STRUCTURE AND ITS LINKS WITH WALES

OFCOM’s links to the National Assembly

22. We welcome para 8.7 of the white paper, which indicates that the new regulator, OFCOM, will maintain links with, and consult, relevant Assembly committees, and the Assembly Cabinet. We are pleased that account is being taken of devolution, even though the regulation of communications remains a non-devolved matter. We recommend that the Bill give OFCOM a statutory duty to consult the devolved administrations.

Structure of OFCOM

23. We welcome the reference in para 8.6.2 to the Government’s wish to ensure that the new regulatory body, OFCOM, is organised so as to take into account "the interests of different parts of the UK". We believe that this objective should apply to all of OFCOM’s work, and not just to content regulation issues. We recommend that this objective be mentioned on the face of the Bill.
24. OFCOM will replace existing statutory regulators (the Independent Television Commission, Radio Authority and Broadcasting Standards Commission) on which Wales, like the other home countries, is represented at Board level. We recommend that the Board of OFCOM should likewise include a Member representing the interests of Wales. We suggest that that Member for Wales should be appointed by the National Assembly. We recommend that the Bill provide for this.

25. In order that OFCOM can develop a close understanding of issues in Wales; can manage the required links and consultations with the Assembly; and provide appropriate support to the Welsh Member of the Board which we propose, we recommend that OFCOM should maintain a national office for Wales, appropriately resourced.

26. We likewise recommend that there should be a representative from Wales on the Consumer Panel which the white paper proposes should be established to advise OFCOM (para 7.5)

27. OFCOM will also replace OFTEL, which currently draws on the advice of the Welsh Advisory Committee on Telecommunications (as does the National Assembly). With the establishment of OFCOM, we recommend that a new Welsh Advisory Committee on Communications be established, covering the full range of OFCOM’s responsibilities for communications. We recommend that the Bill provide for such a committee.

Jenny Randerson AM, Minister for Culture and Sports

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