

University of South Wales



2059415

REFERENCE ONLY

A COMMENTARY
on
'LOCAL PUBLIC SERVICE TELEVISION'

DAVID RUSHTON

This Commentary together with Portfolio of Outputs is submitted to the
Cardiff School of Cultural and Creative Industries,
University of Glamorgan/Prifysgol Morgannwg
for the degree of Doctor of Philosophy

February 2008

ABSTRACT

The Commentary and Portfolio (introduced in the form of Outputs at the end of each Chapter and particularly following Chapter Three) considers the public space that 'local public service television' might occupy. Taking an historical view and a protagonist or interventionist stance the author demonstrates that a demand for local communications through television broadcasting has had strong public support since the introduction of commercial regional television in the 1950s, although government and regulator have variously thwarted its introduction.

The author's background for this task is unorthodox, emerging from a critical art education that questioned the role of institutional norms in the pursuit and interpretation of social knowledge. The methodology is therefore reflective and at times quixotic, working through a variety of methods and forms of organisation and practice in pursuit of what has long been an evident - if overlooked – public objective, the realisation of a more identity enhancing localised form of television broadcasting.

Working with several formal and informal associations – including the Institute of Local Television, the Community Media Association, Scottish Association of Small-scale Broadcasters (SASB), The Broadcasting Trust, Media Access Projects Scotland (MAPS), Advisory Committee of (local) Television Operators (ACTO), United for Local Television (ULTV) and the Scottish Local TV Federation – the author has contributed reports and academic papers on local and community television, organised conferences and run small scale television channels under license exempt and short-term licenses, responded to regulator consultations and drafted amendments to legislation while developing and testing technologies appropriate for delivering programmes to serve local purpose. Through 'local public service television' the author has sought greater representation of civic and cultural views, arguing and debating access to regulate local channels under local control, first on local cable, then as a fifth or sixth terrestrial channel to offer city TV and, most recently, to encourage the introduction of digital spectrum for local public service television to be made available throughout the UK.

CONTENTS		page
Abstract		2
Acknowledgements		4
Introduction		5
Methodology		10
Chapter One:	Local Television Futures	37
Chapter Two:	Local Identity	57
Chapter Three:	Accommodating Local TV in Regulation, Legislation and Engineering	72
Annexes		86
About the Author		107

ACKNOWLEDGEMENTS

The author would like to thank Professor Stephen Lacey and Dr David Barlow for their guidance and diligence and Karen and Sam Haston for their love and support

INTRODUCTION

Local public service television is identified with cultural, political and economic ambitions to better represent and reflect social discourse within an identified local public sphere. The most appropriate scale of local public television invites social participation and involvement in the operation and content of the channel, with geographical proximity encouraging citizen reflections on attachment to place, making possible contributions to cultural expression and the fulfillment of local political engagement. Negt and Kluge (1972: 47) suggest that this 'public sphere' "describes the social organisation by means of public communication of authentic experiences and needs that are relevant to a specific group or category of individuals, and transforms the individual experiences into one of the group". In this light, the author does not consider local and community media in isolation but as part of social process "as an integral part of the individual's active orientation towards the physical and social environment" (Hollander and Stappers, 1992: 22).

After 1996 'local public service television' became an inclusive term to bring together forms of 'local TV' and 'community TV'. Agreement on this followed debate at the Annual General Meeting of the Community Radio Association (now Community Media Association (CMA)) held in Edinburgh in 1996. For radio, 'local' commercial stations were already established while 'community radio' was aspiring to deliver a third smaller and more civic tier. For television a 'local' scale had not been assigned a national plan or a commercial, municipal or community identity and 'public service' was seen to represent common ground between smaller commercial as well as community campaigners. However, for national and regional television broadcasters and communications regulators 'local TV' has meant 'regional television', in spite of the TV regions not conforming to the scale that viewers have found particularly comfortable or relevant (Rushton, 1993: xiii) especially for news and identity. The CMA agreement in 1996 helped coordinate responses to the Independent Television Commission's introduction of a single type of local television license, to be known by its acronym 'RSL', standing for 'restricted services license'. For a few years the CMA provided a secretariat for a community-commercial association that became known as

LiTN (Local independent Television Network). In anticipation of digital spectrum capable of use by local TV the CMA has provided the focus for the UK-wide organization United for Local Television to represent local public service television interests in offering universal access to local TV on Freeview.

Without a statutory right in law for each citizen to access the airwaves (or cable) the UK is out of step with what Nick Jankowski (1991: 85) has described as the ideal community service type, or purest form of community broadcasting, the 'open' or 'access' channel established widely throughout Germany and variations throughout the Benelux countries. The modeling and construction of demand for a more local political and cultural social broadcasting space has found the UK Government to be defensive and wary, while established national broadcasters have steadfastly countered demands for a coherent national local frequency plan to introduce a more coherent network of local public services than regional TV has wanted to provide.

This Commentary reflects a combination of theoretical and practical interventions, from more than twenty years, providing research that has sought to inform as well as to advocate 'local TV debate', celebrating in practical ways the content and achievement of local television experience and its positive contribution to democratic debate as a local public service. Hollander and Stappers (1992: 19) suggest "community communication is then a form of public communication". The author suggests that without 'representation' in both democratic and reflective forms there is no public sphere because these two forms of representation are interdependent.

The scale of a 'local public service television' should encompass a known and publicly imagined social geography, encircling an area where the viewer is comfortable to intervene as citizen or cultural practitioner, an area sufficiently well defined to encourage civil discourse and political consensus, constructing and reconstructing cultural reality in order to reflect personal ambition in social goals. Local public service television's civic contribution is founded on its close proximity to [its] audience: their viewers in general are not only able to walk

in and take an active part in the process of communication; this collaboration is actually required, since local TV is about the reality of its viewers' immediate surroundings. Certainly, viewers may identify emotionally with what they see, but in this case their emotion is constructive and contributes to social activation. Reflection is encouraged by examination of real, dynamic, reality, rather than the immobilized sham of infotainment and the reality show. For local TV, true audience participation is a guarantee of quantitative and qualitative success. (Campoy, 2006: 5)

This long-running dialogue on 'local public service television' has captured some of that missing 'constitutional' debate in the identification and characterization of public demand for an 'identity enhancing' television space within public broadcasting and communications. The arguments for 'local public service television' have wound around three strands of state responsibility: legislation, regulation and engineering. The author believes these deserve greater scrutiny and political engagement to broaden public influence upon the future delivery of public service communications, to address the purpose of the state's continued monopoly of these areas as Whitehall seeks to alienate the scope of future public intervention by encouraging the regulation of spectrum through auction and commercial markets.

The 'local public sphere' has been rendered invisible in central Government's complicity in transforming the public from local citizens as viewers into audiences that might be satisfied as consumers. The BBC has lost a once coherent unifying social and public purpose, failing to reflect the emergence post war and post cold war of a strongly expressed demand for a more local identity to be reflected in the nations (Rushton, 1993: xv).

Chapter One considers spectrum's unusual properties, in the light of a largely uncontested economic opinion articulated into communications policy by Government and Ofcom - that to improve spectrum efficiency spectrum's management should be transferred by auction to commercial interests, with future regulation following

market demand through secondary trading. The author concludes that the outcome of this transfer, if not its actual purpose, is to further distance broadcast spectrum from public accountability and to inhibit the assembly of frequencies to achieve a more localised social and economic pattern of networked distribution, one that can address communication priorities conceived within the political nations, regions and (particularly) localities.

Chapter Two examines the record of public support for the more localised television form in news and information, excluded by the present industrial and consumer scale of transmission and competition, making television currently unable to recognise, reflect or identify with an identity enhancing social and civic scale.

Chapter Three constructs a map of particular interventions by the author in the regulatory, legislative and engineering processes, providing an overview of the work-process of which a sample is represented in the 'Portfolio of Outputs'.

In conclusion, the aim of this Commentary is to index something of 'local TV's' historical journey, to outline something of the working method that informs it and to stimulate further interest and debate on matching spectrum to perceived public demand, for social and economic benefits to be secured through television and for these to be accounted for on local terms. With national public and commercial television channels already being broadcast in profusion the ambition here is for each distinctive local area to determine its own economic and cultural uses of terrestrial spectrum released at digital switchover, to bring communication benefits as a priority to those encompassed by use of spectrum in each instance of transmission and reception.

Although written between 2006 and 2007, throughout 2008 the chapters from this Commentary have formed elements in submissions to communications regulator consultations and contributed as evidence to broadcasting and devolution commissions (in Scotland). Where known the (tentative) outcomes of these

interventions are identified in the introduction to Outputs appearing at the end of each Chapter.

REFERENCES

- Campoy, C (2005) 'Televinte: reality shows vs real people', *ACTO 4.pdf*, October 2005, www.maccess.org.uk/members/ilt.html: 5 (last confirmed 23/10/07)
- Jankowski, N (1991) 'A European Opening: The Netherlands', *Local Television in Europe: proceedings of the colloquium in Strasbourg*, Editions ACTA: 85
- Hollander, E and Stappers, J (1992) 'Community Media and community communication', in Jankowski, N, Prehn, O and Stappers, J (eds) *The People's Voice: local radio and television in Europe*, John Libbey: 22, 19
- Negt and Kluge, (1972) cited in Hollander, E and Stappers J (1992) 'Community Media and community communication', in Jankowski, N, Prehn, O and Stappers, J (eds) *The People's Voice: local radio and television in Europe*, John Libbey: 47 (reference not found).
- Rushton, D (1993) 'Introduction' in Rushton, D (ed) *Citizen Television: a local dimension to Public Service Broadcasting*, published by John Libbey & Institute of Local Television: xv

METHODOLOGY

In the late 1960s a critical art practice seemed not only possible but also capable of being realised in art education. What informed the discourse of a small group of students at Coventry College of Art between 1968 and 1972 was an appetite for analysis and interpretation to contribute a deeper more constituent part to art's learning and practice. This was not how the College wanted it; the dominant view was that art writing should be seen as a secondary study, an historical or cultural supplement to what should remain a fundamentally material art practice. At Coventry College of Art the three editors of *Statements* – Philip Pilkington, Kevin Lole and myself – entered the Coventry Fine Art course from its Foundation year and were later joined by Peter Smith. Together we became known as the 'Analytical Art Group' after the title of our second journal, *Analytical Art* which we self-published and distributed throughout Europe and North America (Lole, Pilkington, Rushton and Smith, 1971-72). Variouslly described as Conceptual Art or art-as-idea working and studying art could no longer be firmly tied to a material base so that, as Charles Harrison suggests, "we are dealing with a range of enterprises in which problems of identification and description are often the very stuff the viewer is invited to address" (Perry and Wood: 2004: 70).

These art students had been recruited from Coventry's Foundation year as the first intake for a theoretically based three-year Fine Art course. They had been encouraged by

an intellectually active process of investigating and producing critical art works, [on the Coventry Foundation Course, and] applied to the Diploma in Fine Art at Coventry School of Art, planning with the Art & Language group the possibilities of developing the Fine Art course to introduce and put into practice emerging ideas of conceptual art (Salaman, 2006).

Several of the Art & Language teaching staff were quickly forced out of Coventry in favour of a more orthodox studio based Fine Art approach leaving the *Analytical Art* students with a decision either to follow them or conform their work to the 'material

paradigm' and the school/college's demand to make objects as art. Instead the students stayed, wrote and published widely, formed their own Press and contributed critical papers to the international art and educational magazines and journals. The objectives became to participate sufficiently in the institutional requirements, to separate out those things we'd do "from those we will not do, or not do without discomfort" (Blackburn, 2000: 1) and thereby to avoid by the narrowest of margins being thrown out.

In his contribution to *Art and its Institutions: Current Conflicts, Critique and Collaborations* Simon Sheikh characterises a form of parasitic institution built upon antagonism that generates instability and flux in the host; revealing contradiction without entirely overpowering or becoming itself devoured. Such an internal institution holds out "a conflictual rather than consensual notion of democracy, and one that is directed towards process rather than endgame". The purpose of such a contrived and defensive position in art is "to emphasise the democratic potentials of the art space" (Sheikh, 2006) while the democratic credentials of such a conflictual space need not be entirely those of 'art' although forged in that context.

To understand their predicament the *Analytical Art* students turned to the philosophies of science as well as language, alighting on Thomas Kuhn's *The Structure of Scientific Revolutions* to research and write *Concerning the Paradigm of Art* (Lole, Pilkington, Rushton and Smith, 1971). With Kuhn's identification of paradigms of scientific method the students reconciled their emerging art-education practice in parallel and parody to polytechnic positivism and the immediate College and Faculty demand for closure, with its threat the students accept the 'material paradigm' as fundamental to everyone's art-practice. At best the nature of art depended upon the 'art assertion', the assertion that this was art, and its recognition as such. (Rushton, 1971: 7-14). Significantly Kuhn had also placed recognition of scientific answers inside an educational setting so that "at least in the mature sciences, answers (or full substitutes for answers) to questions ... are firmly embedded in the educational initiation that prepares the student for professional practice" (Kuhn, 1996: 5).

In the 1960s and 1970s alternative counter-educational horizons advanced by Ivan Illich were more commonly being talked about. Emphasising de-schooling and by extension de-institutionalising higher education Illich questioned the locus and control of the learning process asking where the educational value for the immediate society lay in securing an unquestioning commitment of those being taught to accept the operational tenets of their education. We found that in art education “learning, dignity, independence, and creative endeavour ... [are] defined as little more than the performance of the institutions which claim to serve these ends” (Illich, 1973: 9). But as students we were minded to illuminate the circumstance of educational decline being dressed-up as improvement and student liberation.

Pedagogic institutions exchange acceptance of authority with junior participants for a share in ritual and language, helping build the novice’s sense of self-worth through mutual recognition and professional socialisation. The narrative for those students who refused laissez faire socialisation concentrated upon the institutions’ struggle to redraw its pedagogic and administrative boundaries in the late 1960s early 1970s, and we agreed with Kuhn that normal research (whether in art or the material sciences) is “a strenuous and devoted attempt to force nature into the conceptual boxes supplied by professional education” (Kuhn, 1996:5). Here art education sought to barter administrative convenience for educative purpose and to release the student from conformity and requirement into a barely articulated natural state – so that removing students from ‘conceptual boxes’ became itself the new box.

For the Analytical Art Group the fault line was that “there must be some authority invested in the [educational] speaker, the speaker must want to perform the [speech] act sincerely, and the [student] listener must want it to be done” (Crystal, 1984: 243). If we were to remain as students how might it be possible for study to “proceed without such [institutional conceptual] boxes, whatever the element of arbitrariness in their historic origins and, occasionally, in their subsequent development” (Kuhn, 1996: 5). A glimpse over the institutional wall showed that outside a broader art-institutional critique was gathering momentum aimed mainly at “forcing museums to

declare their own structures, constitutions, and assumptions (or covertly precipitate them)” (Welchman, 2006: 11).

Perhaps there is more to the struggle for an art education than a footnote in Conceptual Art’s history – with the educational phase commencing in the late 1960s and closing down a decade later. The footnote however must be written other than in art. Tackling art’s institutions was neither a contingent nor arbitrary activity but a reflection upon a broader socio-political transformation in expectation, in ways of working and thinking within society in which art was finding its place. Having invented ourselves in antagonism through *Statements* and *Analytical Art*, by building a contesting narrative in lectures on art education and Conceptual Art delivered in North America, in having exhibitions of work in Europe and in writing for the art press, at graduation we had to decide whether to relinquish struggle in favour of the norms of a wider practice and to abandon an activism force fed on art education that had provided us with our contrary strategies and identity.

From 1968 till 1977 a strong thread of dissent continued to emerge from students attending the colleges, from Coventry and Newport, to Nottingham, Edinburgh, Leeds and the Royal College of Art. This continuity ran through shared student papers compiled in *Art & Education* and *Noises within...* including course committee notes and scurrilous Swiftian accounts, from punk student publications such as *Ratcatcher*, *Issue* and *Ostrich* to chapters contributed to *Politics of Art Education* (Rushton and Wood, 1979). Outside this hyperactive student diaspora less involved writers were providing similar thumb-portraits of the social and educational setting.

Courses in Art & Design based on an informed critical awareness of the state of our culture; on a familiarity with the terminological concepts and schemata of science, particularly the human sciences; and on a repertory of techniques of expression and communication which must be seen as open to addition. Such a programme would require a flexibility of structure of a totally different order to the pseudo-flexibility of today where boundary crossing is as risky on the college corridor as in the Shankill Road (Gray, 1973).

The peculiarity of our practice was its refusal to be absorbed and to remain a platform of critique that refused to sink into isolation or irrelevance. In a more recent exploration of art's institutions Jakob Jakobsen suggests that while “institutions in disciplinary societies operated as closed systems: their primary function was the production of normality: they made everything cohere, they organised time, they organised space and they established a specific public sphere” (Jakobsen, 2006: 8). He suggests the genesis of our self-consciously constructed Russian Doll institutionalisation lay in a process of struggle for independence that remained perversely dependent. This arises for those “in a situation where it is difficult to distance oneself from the domination of institutions, [where] new means must be applied to construct alternatives. ... [where] Self-institutionalisation can be viewed as a kind of exorcism, a kind of externalisation of this internalised control. ... [where] The construction of this alternative was based on taking power – but also on a refusal to become government” (Jakobsen, 2006: 10). The self-institution of (say) *Analytical Art* and School Press and later of the Institute of Local Television in 1988-89 arose entirely in opposition to forms of institutional closure in their refusal to accept exclusion or external opposition while maintaining critique of exclusion.

The early practical emphasis on printing was to secure control of publishing and hence distribution which saw the activities of those associated with School Press in the art colleges inform the politics, activity and carnival of the Anti-Nazi League and Rock Against Racism; saw work with film in Red Star Cinema as well as print so as to record, ‘represent’ and amplify labour movement disputes in Edinburgh and later Birmingham and then with the trades unions across the UK. The ambition in common is the instantiation of a space through publishing, film distribution, art exhibition or local channels under local control. This demonstration that there can be a critical space of a metaphorical or literal scale within rather than absorbed by a wider reflection is evident in the sometime confusion of the title ‘Institute of Local Television’ as an Institute *for* Local Television; confusing the expression of its ever present conceptual understanding with a lobby on *behalf of* or ‘for’ some possible outcome.

A possible vantage point from which to *know* and to locate a(n) '(art) community' is to stand at its edge or margin and not sit at its centre (Eagleton, 2004: 135): or perhaps to adopt a 'protagonist critique' as an emerging discourse on art's patronage and institutional education. I suggest this critique emerges out of Coventry in the writing of *Politics of Art Education* (Rushton and Wood, 1979: 3). The task here was to identify the changing place of art and class in the evolution of the 'national culture', to disassemble the confusion of culture and consumption at a time when 'counter culture' prefigured a more academic and interpretative study in the form of cultural studies and its elevation of 'popular culture'.

For Conceptual Art in the 1970s "the various modes of institutional critique had outlived any critical function and appeared increasingly blind to its social, historical and political context. The moments of revolution and renewal you find with early Conceptual Art and the Situationist International had disappeared" (Jakobsen, 2006). In subsequent years, this activity had slid into "a largely ironic playful, detached and ideology-free art practice, whether it is conceptual art or not" (Marzona and Grosenich, 2006: 25). In addressing the *Politics of Art Education* the process and function of art as well as its educational role in society was being narrated through a *mélange* of historical, political and journalistic detail: a form of cross disciplinary discourse. Yet in referring to its own construction that discourse is lifted beyond the comfort of academic exercise into a more instrumental and demonstrative political role. The making of the *Politics of Art Education* as a book made a contribution to the performative elements of the protagonism of which it was an early part. Before publication the Arts Council pulled several defensive levers on the publishers, threatening to withdraw funds from the monthly *Studio International*. A seemingly impossible deadline was then set by Studio to secure legal oversight before completion of printing by the end of 1978. The sentences the publishers identified as difficult were blacked out but left in place to draw attention to what otherwise would have become a hidden and complicit excision. We typeset the publication and piled bundles of the printed copies on the doorstep of Studio's London office.

Both *Noisy Channel* (Rushton, 1987) and the short book *Don Quixote's Art & Television: seeing things in art and television* (Rushton, 1998), provided to accompany the Portfolio of Outputs as early or formative work, draw on the counterfactual as well as of the fictive and the escapade from the dissenter's armoury, some ten and twenty years further on from *Politics of Art Education*. In a protagonist's method solipsism and circuitousness remain evident, whether tilting at educational windmills or goading communications transmitters both serve to retrieve solutions or to glimpse alternatives that institutional wisdom maintains are simply not there or not even possible to conceive let alone regulate into existence. These counterfactuals are teased and coaxed into discussion by goading and the refusal to play along, and by these means as often as by more polite enquiry discern the character of what is absent or revealing through what is refused.

The trades union 'magazine' *Noisy Channel* asked in 1987, why shouldn't trades unions advertise on TV to promote the benefits of the National Health Service, supporting the status quo? This was at a time of government television campaigns selling shares in gas and telephone as privatisation. In faux naivety you might ask, why shouldn't the health workers extol the NHS in TV commercials to counter those promoting the benefits of BUPA? The answer – according to the Copy Clearance Department of the Independent Television Companies Association – is that trades unions are political animals (banned from advertising on television) while privatisation is government policy so it is not political: government having a natural monopoly of political voice (Rushton, 1987: 36-39). Comparing less favourable elements of Marxist factionalism E P Thomson claims “many have glanced at the antagonist in a casual way, seeing it (sic) as a weird apparition a freak of intellectual fashion, which if they close their eyes, will in time go away” (Thomson, 1978: 195). Perhaps that's a fair reflection, but then a little further Thomson goes on, “after all, to any rational mind, the greater part of the history of ideas is a history of freaks” (Thomson, 1978: 195).

In the opening chapter of *Researching Communications, a practical guide to methods in media and cultural analysis* David Deacon, Michael Pickering, Peter Golding and Graham Murdock sketch communications as an enquiry whose great strength is that it is an interdisciplinary space where a range of existing academic disciplines meet, bringing their own particular questions, concerns and intellectual traditions with them ... Drawing a boundary around the analysis of communications in the name of a new discipline has the opposite effect, of making it more inward looking ... Our view is that the study of communications should be undisciplined in this sense and presumes its role as the primary arena where scholars from new different traditions can come together to puzzle out how best to make sense of the complex connections between communications systems and the organisation of contemporary social and cultural life (Deacon, Pickering, Golding and Murdock, 1998: 3).

At this 'invitation', communications studies seems something of a unique practice and place, offering acceptance of an interchange of discourse and flow of ideas between various felicity conditions (Crystal, 1984: 243). But seriously, how real is this? Too strong an enforcement of 'existing academic disciplines' begs the question of compatibility between earlier socialisations (or Kuhn's professional initiation). Surely the 'undisciplined' will have been disciplined (in an appropriate sense) by those norms serving their separate traditions as 'tradition' itself strongly suggests? In fact, the words 'new', 'different' and 'traditions' sit uncomfortably together; while there is no hint here of a critical separation of the academic from the ambitions of administrative and managerial goals, objectives that permeate if not lead every academy, as much as they began to infect prospects for an art education four decades ago. Combining disciplines is unlikely to lead to radicalised 'undiscipline' but to orient a unifying consensus to have greater clout, dictating that what is outside will remain still as marginal in being unable to recognise what lies beyond its undigested concerns. And yet at heart, the desire for scientific method is no more than an institutional fiction convenient to those seeking conformity of ideas, because

there are no general solutions ... [rather] the idea that truth is concealed and even perverted by the processes that are meant to establish it makes excellent sense. Successful research does not obey general standards; it relies now on one trick, now on another; the moves that advance it and the standards that define what counts as an advance are not always known to the movers (Feyerabend, 1975 & 1973: 1).

Arguably, in this circularity there is no language to describe a practice that has not already become institutionalised. As J R Searle argues, “the classical theorists, in short, have the direction of analysis back to front. Instead of presupposing language and analysing institutions, we have to analyse the role of language in the constitution of institutions” (Searle, 2006: 24). If the pursuit of knowledge as shared commitment reduces knowledge to those institutional terms then, as Feyerabend seems to suggest, it is intuition as motivation, ‘a vague urge’ or more deeply a ‘passion’, which methodologically “gives rise to specific behaviour which in turn creates the circumstances and the ideas necessary for analysing and explaining the process, for making it ‘rational’” (Feyerabend, 1975: 17). So in turn Kuhn and Feyerabend are arguing ‘against method’ as demonstrated in its entirely normalised and institutionalised expression.

Like Feyerabend, Gramsci (1971) also identifies the intuitive element of the ‘driven’, the processing forward element (or ‘will’) as arising outside while informing method. Yet ‘will’ becomes obscured even denied by method’s ongoing professionalised practice, making ‘will’ unknowable and irrelevant at a shared level, transformed as group motivation into professional practice. With Feyerabend and Gramsci, or in fiction with Cervantes’ figure of Quixote or Andre Gide’s ‘immoralist’, there is tantalising evidence of the need to struggle, to embark on a dialogue to anticipate problems worth finding if rarely entirely resolved. Gramsci’s polarity of will and intellect is echoed when Feyerabend talks of his difficulty in distinguishing ‘the *logical force* from the *material effect* of an argument’ (Feyerabend, 1975: 16) or when Ludwig Wittgenstein remarks that to “write or talk Ethics [and, hence, aesthetics] [is]

to run against the boundaries of [propositional, logical] language” (Stengel, 2004). Clearly in endeavouring to distinguish rhetoric and aesthetic from writing as evidence we entertain the idea that an utterance and expression can convey a meaning not exhausted in what is rendered to common translation. In this the democratic character of the public sphere is not simply to be assumed to exist in description, but must instead be continually anticipated, achieved and invented as “an intricate and multiply contingent set of social spaces and practices whose boundaries always remain negotiable – and thus potentially renewable” (Dahlgren, 1995: 147). In repeating, failing and succeeding by different means to achieve a willed dismantling of institutions the protagonist demonstrates in recording persistence their historical dialogue with the state and its assorted regulatory and legitimating apparatus.

Looked at in another way, a possible intervention for local TV from the author's history would be to broadcast a pirate TV channel. Although this choice has been faced contravening the Wireless Telegraphy Act has one of two possible outcomes. Localised examples of piracy as intransigence or martyrdom marginalise and elevate the transgressor, removing them from potentially legitimate if questioning stakeholders into outlaws, succeeding in social exclusion (or incarceration) rather than in progressing an informed dialogue for change. That is the law is viewed hermetically and once punctured you exclude yourself from its transformation. Of course the alternative hoped for outcome of transgression is that rules impinged might be modified to accommodate sufficiently a new category of approved action - a newly 'socialised' or acceptable once piratical activity. However acceptance here remains a centrally protected and patronised regulatory gift. The favoured transgressor is then most likely to invest a small stake in retaining the enlarged scope of those rules once broken to deny later transgressors access to the spectrum they themselves now occupy.

Neither of these outcomes serves the protagonist's objective to understand and assess institutionalisation and rationale, to defend some principles over others in the public's name, to include identity with some stakeholders while excluding others. Here the

protagonist offers resistance to the naturalisation of regulatory principle into a tacit public discourse, as a deferred background secured as common sense, so letting others decide for us when that 'us' might be better circumscribed by discussion.

Protagonism is not concerned with securing localised permissions or breaches of allowance *to do so and so*: but taking a broader approach to the ownership of allowance that differentiates the protagonist from the pirate or rule-breaker. To continue this example all terrestrial spectrum for broadcast transmission is local not national in its reach. To aggregate spectrum for central regulation remains a conceit or a fabrication whose common purpose and benefit needs to be regularly tested, not least as to the role of central monopoly and the social value of not determining – as an alternative - spectrum use locally. Here the contestation lies not with central authorisation and permissions to use spectrum for local channels but wresting the scale and distance of that determination from central to more local account and to bring 'local channels under local control'. To enter into this discussion we need to ask the sort of counter-factual questions the political philosopher Thomas Hobbes asked when arguing in favour of the opposite benefit of the individual ceding personal security to the combination of a strong state – is a greater public good derived from giving up local rights to central determination or has the balance of the public good shifted to support local control? Now that national public service has been fulfilled for spectrum use the State seems determined to cede control of the balance of spectrum not to the public in reach of signal but to corporate self-regulation.

To consider the scope and restrictions upon broadcasting of legitimation, regulation and engineering over the years there is a need to maintain an argument for *a space for local action*. Yet, short of the evidence of piracy which is too narrow and self-defeating an objective there is little material evidence that such a local space is actually wanted. And yet tautologically, it is the absence of such a space that excludes any action to fill it. While *intellect* would say the local public space for self-directed action is 'absent' or otherwise it would be shouted for, it is *will* that suggests 'it is being denied'. Protagonism is therefore not looking to secure 'special cases' or to

highlight a social incident here and there but to provide evidence of demand *in principle* for a general transformation supporting a more localised democratic regulation of the public communications space.

What I am suggesting for electromagnetic spectrum represents a view (Dahlgren, 1995: 147) that rules should be exposed and rehearsed so that they are seen to maintain their contribution to achieving social ends. Here the principles informing ownership or custodianship of spectrum cannot be left to ossify as fixed boundaries but are examined for their social purpose to deliver an inclusive economic, cultural and political endeavour. Regulatory boundaries must be capable of being changed and the mechanisms for change made transparent so that those cast as observers (as viewers as citizens and consumers in communications) can choose the choices they'd like to have available to choose from. For spectrum the listener, viewer or subscriber is a participant together with the service operator, both equally necessary to determine Ofcom's objective to secure spectrum's technically efficient use (see Chapter One).

The approach to secure 'local public service television' has been different from that for community radio (although with many shared understandings and aims). Community radio has argued (successfully) for the allowance of individual instances of community broadcasting activism to be represented in those areas where there is evidence these arise. Since 1993 the case for local television has been made through the demand to change the scope of public service broadcasting, to enable local spaces to be accessed universally and accounted for locally within each local public and civic sphere (Rushton, 1993: xv).

Television broadcasting as point to multi-point distribution has a largely centralised and distant form of ownership and economic priority, casting the individual to the periphery of service as well as control. "As an industry, television has to follow the precepts of audience maximisation and profits; moreover it is the paramount vehicle of consumer culture" (Dahlgren, 1995: 148). And yet the different scales of television broadcasting in the UK – of public service television particularly - do not mirror the

three distinct tiers of national democratic representation (of state, nation/region and locality). Television broadcasting obscures democratic representation in its overarching public service not as a failure to support democratic reflection but as its inevitable shaping of that democratic discourse through the more 'natural and inevitable' global patterning and consumption. "While television is the dominant medium of the public sphere, 'public sphering' is clearly not television's dominant purpose, and its institutional logic of course greatly conditions its role within the public sphere" (Dahlgren, 1995: 148).

Through local TV the viewer can explore local participatory (and community) forms of representation while "as a sociocultural experience, television provides symbolic 'raw materials' which are experienced and reflected upon in varying degrees. People make their own sense of television, though such meaning-making tends to follow established sociocultural patterns" (Dahlgren, 1995: 148). The question remains to be repeated and pressed that this 'meaning-making' need not necessarily conform to the dominant sociocultural patterns that treat this raw material of television as always being made by a few others to be consumed by the many who are cast only as audience. The Internet provides points of activism while it can also skate above the interconnections and serendipity required to engage by accident and happenstance those living in a specific geographic area. While "television fragments and unites, it clarifies and it occludes, it informs and distracts. It contributes to a ubiquitous doxa at the same time that it can give some voice to critical sentiment from various sectors of the population" (Dahlgren, 1995: 148). And certainly it could give voice to those whose lives are physically and socially engaged who comprise local publics. The reality is that there is for all of us a local and immediate interface with the world where at times we function actively and which is a place transformable if its possibilities are sufficiently well rehearsed through alternatives, representations and consensus (Rushton, 2005: 65-70).

Without intervening in the historical and political narratives that share and inform legislation, regulation and engineering we are left with recording resistance,

highlighting incidents of refusal after the legislation, regulation and engineering has been put in place: localised outpourings of anger, rage or political/social action. Yet it is possible to be predictive and to take account as here, that there are no scientific or evidential grounds to support the claim that markets will provide a more technically efficient outcome for spectrum use than civil regulation, that the historical evidence of light-regulation for cable and broadband suggests a favourable outcome for television operators and an uneven and unequal delivery of terrestrial services for citizens, and that “market logic therefore emphasizes competition and the multiplication of choice as the path to fulfilling the needs of the consumer” (Abramson, Proulx, Raboy and Welters, 2001: 105). So where market conditions are favoured by regulation those who might receive a service can only be understood as being fulfilled or unfulfilled consumers and not as partners which a ‘scientific’ understanding of spectrum’s technically efficient use demands we address.

For the ‘citizen’ to articulate and argue an aspiration to have an equal influence in regulation they require access to forms of communications that are currently dictated to and shaped by the markets and their favourable regulation. Citizens need to construct for themselves a local public sphere whose regulation is appropriate to the local civic scale of social and political consent. In this, a presumption to acquire control of representations through broadcasting as distribution is not entirely addressed by social action but by the ambition to resist “market logic [because it] rests on the conceptualization of media users as fully formed consumers whose social constitution is radically disconnected from their private selves” (Abramson, Proulx, Raboy and Welters, 2001: 105). So resistance is not weighted to action or to response but to a predictive engagement with the making and purposiveness of policy and its implementation, by hurling localness and its representations straight into the cogs of centralising policy dynamics because “only by confronting the imputed intentions of policy with the lived experience of the people within its purview can we begin to make such research meaningful” (Abramson, Proulx, Raboy and Welters, 2001: 110).

In UK the communications landscape has been ploughed and tilled into a largely indifferent and uncontested consumer furrow fertile for consumption if for few counter examples of resistant social action to surface. In communications consumption contains its own antithesis. The option of choice allows for selection of little or none of the options on offer. This is legitimate 'consumer action', permitting the service operator to make their own selection of consumers by income and location. Therefore we need to *argue for a space for action* to secure the choice of choices to choose from.

Especially in rapidly evolving policy contexts, citizenship is the site at which the state directs the policy interventions that entail "invent[ing] new mechanisms for the empowerment of social actors - who, for better or for worse, are still politically constituted primarily within national boundaries" (Raboy et al, 1994, 296-7) (quoted in Abramson, Proulx, Raboy and Welters, 2001: 110).

Taken together making argument, throwing bricks into the stilled regulatory pond, contributing invective, constructing example, conducting research and textual analysis – in doing all these we can in various ways construct a methodology that demonstrates exclusion that makes what is absent but wanted into that contrary local space along with its local regulation. Over time this task appears more as a journeyed narrative and less a record of social action or historic incident. Like Langland's protagonist *Piers the Ploughman* we maintain faith that others would do the same if they had time or opportunity. Though perhaps this would be more likely if we had all started from here and not some of us from there even though action might be shared "in order to improve the rationality and justice of their own practices, their understanding of these practices, and the situations in which the practices are carried out" (Carr and Kemmis, 1986: 162).

In the manner of permanent revolution "if it is not to lose its *raison d'être*, then, public policy in communication must seek a new basis for legitimation" (Abramson, Proulx, Raboy and Welters, 2001: 105). We cannot stand idle while "the local sphere is a contested terrain" (Morley and Robbins, 2000: 36) through which "media

conglomerates are creating a global image space, a space of transmission [that] cuts across - as a new geographic entity, which has its own sovereignty, its own guarantors - the geographies of power, of social life, and of knowledge”(Morley and Robbins, 2000: 75). Local television remains a powerful possibility in contesting state power and monopoly with the local permitting a “dialectic between the abstract/universal and the concrete/experienced” (Morley and Robbins, 2000: 60). Through local public service television large scale broadcasting and state-scale regulation both lose their monopoly and power to dominate and abstract the representation of the viewers into an audience, to require the public to remain centrally configured but commercially distanced, separated from each other yet compressed into an attentive singular audience.

Disconnected among themselves viewers are figuratively united as this ‘audience’ succumbing to possession by each large-scale broadcaster’s schedule. These “broadcast audiences are inactive, pacified assemblies wherein the power of combination is simultaneously neutralised and in representational form transferred to the broadcasting centre” (Rushton, 1998: 4). To counter this the public as viewers need to be “aggregated differently than when the same individuals occupy the position of audience members” (Abramson, Proulx, Raboy and Welters, 2001: 109). We would encourage public intervention in communication policy to “overcome the significance of [each viewer’s] structural isolation” so that “the audience is understood as being of value to the viewer and not the mechanism which camouflages the detachment of the viewer from his or her neighbour” (Rushton, 1998: 4). In this project “as citizens, individuals can have a critical relationship with media that is far more subtle and difficult to grasp than the catalog of their use habits would seem to indicate” (Abramson, Proulx, Raboy and Welters, 2001: 109). And although what is written here is Commentary to a long-standing local public service television narrative it remains important not to suggest this might favour one local media over another to enlist civic engagement for, as Roger Silverstone suggests “community projects work best when citizens have access not only to a web site, but to related newspaper coverage, radio phone-ins and local TV debates” (Silverstone, 1999: 63).

Over the last two decades multi-channel choice has excluded the simple achievement to meet each other on television in local dialogue. In the contemporary experience the fragile popularity of regional TV news is not attributed to relevance but to news becoming ‘entertaining’ (Kerr, 1988b: 4). Writing to the *Guardian* Giles Oakley (2007) finds a “deeply cynical culture of television has been created by the response of those in positions of power to the increasingly competitive multi-channel environment, including channel controllers, commissioning editors and executive producers”. Oakley, a former Senior Producer in the BBC’s Community Programme Unit, vests the new arrivals at the BBC from university with an idealism they rapidly unlearn. Oakley concludes his letter “in the scramble for ratings it has become hopelessly old-fashioned to enter television with any kind of cultural mission or socially useful purposeful idealism, as many a fresh-faced newbie soon sadly discovers” (Oakley, 2007).

And yet, some who work in the universities express a deep-seated concern that it is the goals of the training and objectives promulgated in the universities that secure that cynicism Oakley decries, so that students might prosper in their media careers. Greg Philo (2007) of Glasgow University Media Group, writing in the media pages of the same issue of the *Guardian*:

In universities, several generations of students in media, cultural studies and even journalism have been taught that there is no such thing as truth or accuracy in television products. These are all merely a construction, a ‘spectacle’, produced for audiences who ‘decode’ and consume them according to their own tastes and pleasures. There is little difference between an episode of *Casualty* and the 10 o’clock News. We have argued against this ‘postmodern’ approach to understanding media. Yet the depth of the problem for the BBC is apparent in that there are now even voices calling for the abandonment of the traditional criterion of impartiality [cf. Ofcom’s *New News, Future News*, 2007)] – because it is thought impossible to give an accurate and fair account of a range of positions in a political argument.

In this commentary the argument is not being made for devolved services, for a flourish of local action, but for a more fundamental and localised accountability for communications policy, for subsidiarity and local regulation “to resist these market pressures, and look instead for new bases on which to determine the legitimacy (or lack thereof) for regulating broadcasting and telecommunications” (Proulx and Raboy, 2003: 3). To achieve broadcasting subsidiarity “the rhetoric of public interest must be articulated with data mined from corpuses which go beyond those generated by cultural industries lobbies and logics ... that is, a demand defined first of all by criteria linked to social and community life, not simply indices of industrial and commercial success” (Proulx and Raboy, 2003: 3).

ANECDOTE AND CONJECTURE: RELATING BIOGRAPHY TO METHOD AND INCIDENT

(For an overarching chronological narrative up to 1997 see Rushton, D (1997) ‘Introduction’ to *Creating Local Television, local and community television under the Restricted Services Licence*, CRA, John Libbey and for outline biography see ‘About the Author’ – page 130 here.)

1970-1990

Robert Morris Project 1970

Perversely for art history at Coventry Philip Pilkington and I would make art. In the *Robert Morris Project* we made Morris felt sculptures that we exhibited as being Morris’ own work. Not as plagiarism or homage but because Morris no longer either made or hung his own work and we argued that he was the author of a class of felt sculptures rather than of particular identifiable individual items, which could (and were being) made by others. Strangely, Morris disagreed.

Art & Education 1974/5 - included here as background publication

While Coventry and Newport Colleges of Art were the earliest to embrace Conceptual Art other courses and second and third generations of students were following on. *Art*

& *Education* and later student magazines and journals – *Ratcatcher*, *Issue*, *Ostrich*, *Noises within* ... along with School Posters, (reproduced in *Politics of Art Education*, (1979)) provided a critical framework in which to engage the wider art education. This study began with a technical solution to provide student journals on microfiche to sympathetic art college libraries (most art librarians applauded and supported student written activities) while the accompanying texts serve as a bridge to the later analyses.

In 1975 I moved from the Midlands to the Scottish Borders, undertook a printing course in Edinburgh (Reprographic Machine Operators Certificate) and took work with a printer in Galashiels. I was later to work at Snag Mill Press also in the Borders where I was able to print the student magazines and journals. In 1997 and with a colleague from Coventry – Alan Robinson - we set up School Press in the basement of Edinburgh Trades Council providing income to buy film making and projection equipment which we used to make local labour movement documentaries for which in turn we established Red Star Cinema, showing a combination of local political shorts and films hired from London's Other Cinema. The films *Lothian War Plan* and *War Zone* were made for CND and *Deadmen Echo* on labour movement film making in the 1930s.

Politics of Art Education 1979 - included here as background publication

When the publishers of Studio International set Paul Wood and I a crazy deadline to have *Politics of Art Education* finished ready for printing towards the end of 1978 they were responding to a threat from the Arts Council to withdraw funds if publication went ahead.

Studio's lawyers wanted massive cuts made to the Leeds paper to avoid libel action from Leeds University. There was no quibbling – we blacked out the cuts in their entirety, but left the blacked out lines to tell their own story.

Noisy Channel 1986-7 – included here as background publication

I worked for a trades union resource centre in Birmingham from 1983-86, finally

setting up TU/TV to respond to initiatives to develop a stronger more positive trade union presence in the national media. A TV series proposal titled *TU/TV* competed with *Union World* for a follow-up to Granada's series on Channel 4. *TU/TV* was short-listed but hit two different of buffers. Firstly the TUC were hostile to our proposal – for a trades union TV station to 'occupy' the airwaves and investigate the unions, business as well as government from a rank and file union point of view. Perhaps equally damning, Margaret Thatcher was returned to Government in 1987 and Channel 4 decided it had offered enough to the unions and thought to introduce a lunch-time City programme instead. *Noisy Channel* as publication salvaged some of the treatments and early story-boards prepared for discussion as part of the first series.

1991 to present

TexTV 1994

I uncovered a loophole in the 1990 Broadcasting Act that allowed non-representational TV to be broadcast without a broadcasting license: requiring only a Wireless Telegraphy Act license. By the time the Secretary of State intervened to prevent Edinburgh Television broadcasting – by withdrawing our frequency in favour of Channel Five – we had made 115 applications for text based local TV services with the Radiocommunications Agency and were days from launching an Edinburgh channel.

There is an element of bluff and bravado here – I know, you know I know what I'm doing. But by establishing models close to working practice the general claim 'it won't work' or 'there's no evidence' is being systematically questioned and not accepted at face value.

Berlin Tapes 1994

Throughout 1994-1995 Queen Margaret College students compiled a monthly tape for distribution on cable in Berlin – the *Berlin Tapes*. Consisting of a half hour of short documentaries and animations made by students, graduates and home-movie makers around Scotland.

Capital News 1995

Capital News was a Summer student project in Edinburgh aimed at broadcasting a TV signal to the George Hotel over the weekend of the Edinburgh International Television Festival in 1995 – meeting at the hotel. In spite of careful paper trail of regulator and ministerial approvals from Whitehall the Secretary of State again stepped in, just 15 minutes before transmission and withdrew the Wireless Telegraphy Act license (issuing a threat of prison, a £250,000 fine and summary confiscation of broadcasting equipment) should we transmit.

The production team – Scottish university and college students, *Scotsman* journalists and many equipment suppliers – went ahead but broadcast to tape instead. Watching a copy of this video the Head of the Independent Television Commission in Scotland, Brian Marjoribanks grudgingly accepted the quality of the local news was fine, a perfectly acceptable model for a news service for his home town of Falkirk. So ... final year students on the local TV course at Queen Margaret and the production courses at Napier, Stevenson and Stirling demonstrated that with practice they were quite capable of producing ‘an acceptable local news service’. It seems difficult to imagine now – following the Internet, the mobile-phone and ‘citizen journalism’ - how seriously the impossibility of local contributors producing news was presented by the regulators in 1995-96.

Castlebrae Concert 1995

A concert performed by bands studying at Jewel and Esk Valley college was transmitted live from Castlebrae High School in Edinburgh to Berlin’s Offener Kanal using ISDN to Berlin and a cable channel out across the cable network – into three million homes. Exporting Edinburgh to Berlin on TV was perfectly lawful but having Edinburgh speak to itself was not. This demonstrated at a crucial time the tight controls over broadcasting exerted in the UK in the case being made for a sympathetic drafting of the 1995 Broadcasting Bill

Exercises such as these provide inflammatory models but usually have their own internal benefit for those engaged as practical learning exercises and in finding the limits to broadcasting freedom. They are also sufficiently life-like to help counter claims on grounds of quality, organization, responsibility or cost that similar services should not be introduced or permitted. These are models built to serve a wider regulatory purpose – certainly to include learning and teaching internally in a simulated working environment, but primarily not as social action so much as example to address that external regulatory purpose.

Don Quixote's Art & Television: seeing things in art & television (1998) – included here as background publication

Representing an earlier attempt at thinking through the crossover between art and television by exploring distinctions between seeing and seeing-as, or between 'raw' observation and 'reading' as representation. Contains a scurrilous reconstruction of an article by Paul Wood on an Art & Language exhibition that seemed to stray so far from a relationship or representation of the work that a 'model' of the Montrose Basin in Angus that had been built in my back garden was substituted into the text. The publishers didn't notice, though Paul and Art & Language did.

Restricted Services Licenses – local analogue TV examples 1999-2002

To demonstrate the future long-term possibilities of local television in 1999 it was necessary to have some RSL projects working - in spite of the poor broadcast signals and the consequent lack of viewers which made many of these services precarious. On the face of it this pursuit was particularly Quixotic for all involved across the UK. Yet local TV operators believed that the Government would not let them fail; that spectrum would be found to increase coverage because, after all, regional TV had not been allowed to fail in coverage although failing to deliver sufficiently local services.

Here I'm reminded of a phone conversation with a senior figure at either the Home Office or the Department of National Heritage in the mid 1990s. In exasperation at my

demands for local spectrum he said – “its not that we don’t think local TV is wanted, we are sure it is – it’s that if it succeeds we’ll never be able to take it back”. Surely, the only question from then is - how can we make it succeed sufficiently for spectrum to be made universally available? Or to consider how might Government appear willing to support while offering spectrum so constrained they ensure local TV fails miserably or it is not taken up?

Channel Six Dundee 2002-2003

On closing Channel Six Dundee I was surprised as well as saddened to be presented with a petition of 5000 signatures to hand to ‘the authorities’ to keep it open, roughly 12.5% of possible viewers had signed the pages – for a service reaching just 40,000 that had been running for just over a year. Currently Border TV is under threat of closure with the service transferred to Gateshead and viewers have provided 14,000 signatures supporting a service that has been running four decades for a population of 250-300,000. I still have the Channel Six petitions – but still have to find an authority who will accept them.

e-tv Aberfeldy 2002-2003

e-tv Aberfeldy was a very small TV channel running for a year between 2002 and 2003, with virtually no budget. It was run from above the Tourist Information Office in Aberfeldy town square using 2.4Ghz microwave to send its looped service to the Palace Hotel and a local Bunkhouse high above the town. The videos were also shown in a small community cinema located behind the TI Office.

Without this ‘broadcast’ outlet the programmes would not have been made. Most of the programmes justified their budget and input because visitors could see them – in the hotel, bunkhouse or behind the TI.

It has always been distribution that wags the dog of communications production, something learned in making our student journals, in learning to print, typeset and film – to push the boundaries of distribution up to the door of broadcasting.

BACKGROUND PUBLICATIONS INCLUDED for METHODOLOGY

Art and Education, Dave Rushton and Paul Wood, Welsh Arts Council, (1974/5)

CONTENTS: A report based on a 'preliminary study of methodology in Fine Art Education' involving a possible microfiche journal for artists, staff and students to engage in shared inter-college practice.

Politics of Art Education, edited by Dave Rushton and Paul Wood, Studio International (1979).

CONTENTS: A monograph on the principles informing post war art and design education.

Noisy Channel, edited by Dave Rushton, TU/TV, (1987)

CONTENTS: A scurrilous trades union cultural magazine striding a critical but positive course across an over-defensive trades union landscape. Based on proposals in the production company TU/TV's bid to replace the *Union World* Channel 4 series.

Don Quixote's Art & Television: seeing things in art and television, Dave Rushton, School Press/ILT, (1998)

CONTENTS: With an introduction by Terry Atkinson, *Don Quixote* addresses 'seeing', 'seeing as', 'realisation and representation' as issues in art and television (or communications).

REFERENCES

Abramson, B D, Proulx, S, Raboy, M and Welters, R (2001) 'Media Policy, Audiences, and Social Demand: Research at the Interface of Policy Studies and Audience Studies', *Television & New Media*, Vol. 2 No 2, May 2001, 95-115, Sage: 110

Blackburn, S (2000) *Ruling Passions*, OUP: 1

- Carr, W and Kemmis, S. (1986) *Becoming Critical. Education, knowledge and action research*, The Falmer Press
- Crystal, D (1984) *Linguistics*, Penguin: 243
- Dahlgren, P (1995) *Television and the Public Sphere*, Sage: 147
- Deacon, D, Pickering, M, Golding, P and Murdock, G (1998) 'Approaching Research' in *Researching Communications, a practical guide to methods in media and cultural analysis*, (ed) Deacon D, Pickering M, Golding P and Murdock G, Arnold, London: 3
- Eagleton, T (2004) *After Theory*, Penguin: 135
- Feyerabend, P (1975 & 1973) *Against Method* (Third Edition), New Left Books: 1, 17, 16
- Fishman, J A (1971) 'The Relationship between Micro- and Macro-Sociolinguistics in the Study of Who speaks what Language and to Whom', in Bride, J B and Holmes J, (eds) *Sociolinguistics*, Penguin, 1972: 28
- Gramsci, A (1971) *Selections from the Prison Notebooks of Antonio Gramsci*, trans. Gray, D W S, (1973) 'Between Structure and Content and Beyond', in Piper, D W (ed) *Readings in Art and Design Education* and cited in (Rushton and Wood 1975)
- Hoare, Q & Smith, N, Lawrence & Wishart, London
- Illich, I (1973) *Deschooling Society*, Harmondsworth: Penguin: 9
- Jakobsen, J (2008) 'Self-institutionalisation', *Art Monthly*, July-August '06 No 298: 10
- Klien, N (2007) *The Shock Doctrine*, Penguin: 88
- Kerr, D S (1984(b)) *Local News: East and West Midlands*, IBA: 4
- Kuhn, T (1996) *The Structure of Scientific Revolutions*, (Third Edition), University of Chicago Press: 5
- Lole, K, Pilkington, P, Rushton, D, and Smith, P (1971) *Concerning the Paradigm of Art*, Editions Bischofberger
- Lole, K, Pilkington, P and Rushton, D, and Smith, (1971-1972) (eds) *Analytical Art*, Analytical Art Press
- Marzona, D and Grosenich, U (2006) *Conceptual Art*, Taschen: 25
- Morley, D and Robins, K (2000) *Spaces of Identity: Global Media, Electronic Landscapes and Cultural Boundaries*, Routledge, 2000
- Oakley, G (2007) Letters, *Guardian*, Monday 23rd July 2007

- Ofcom, (2007) *New News, Future News*, Ofcom
- Perry, G and Wood, P (2004) *Themes in Contemporary Art*, Open University Press:
- Philo, G (2007) *Guardian Media*, Monday 23rd July 2007
- Proulx, S and Raboy, M, (2003) Viewers on Television: Between Policy and Uses
Gazette: the International Journal for Communication Studies, Vol 65(4–5): 331–346,
Sage: 3
- Raboy, M, Bernier, I, Sauvageau, F and Atkinson, D. (1994) 'Cultural Development
and the Open Economy: A Democratic Issue and a Challenge to Public Policy',
Canadian Journal of Communication 19 (3/4): 291-315.
- Rushton, D (1971) 'On Asserting', *Analytical Art*, Analytical Art Press: 7
- Rushton, D ed (1987) *Noisy Channel*, School Press
- Rushton, D (1997) 'Introduction', *Creating Local Television: local and community
television under the Restricted Services License*, CRA, John Libbey: xi-xvi
- Rushton, D (1998) *Don Quixote's Art & Television: seeing things in art and
television*, School Press
- Rushton, D (2005) 'Defining the Social Geography of Local News Identity' in *Local
Television Renewed: essays on local television 1994-2005*, School Press and Institute
of Local Television
- Rushton, D and Wood, P (1975) 'Education Bankrupts' in *Art & Education*, Welsh
Arts Council: 1
- Rushton, D and Wood, P (1979) (eds) *Politics of Art Education*, Studio
International: 3
- Salaman, N (2006) PhD (work in progress)
- Sheikh, S (2006) 'The Trouble with Institutions, or, Art and its Politics', in Montmann,
N, *Art and its Institutions: Current Conflicts, Critique and Collaborations*, Black Dog
Publishing
- Searle, J R (2006) 'What is an Institution?', *Institutional Critique: Volume 2 of the
Southern California Consortium of Art Schools Symposia*, jrp/ringier: 24
- Stengel, K (2004) 'Ethics as Style: Wittgenstein's Aesthetic Ethics and Ethical
Aesthetics', *Poetics Today* - Volume 25, Number 4, Winter 2004
- Thompson, E P (1978) *The Poverty of Theory*, Merlin: 195

Welchman, J C (2006) 'Introduction', *Institutional Critique: Volume 2 of the Southern California Consortium of Art Schools Symposia*, jrp/ringier: 11

Wood, P (2002) *Conceptual Art: movements in modern art*, Tate Publishing: 65, 66

CHAPTER ONE: Local Television Futures

Broadband and cable distribution obscures the once civic scale of the cable franchise area, with companies competing across metropolitan areas to secure the most accessible subscribers regardless of the consequence of uneven access. The Government compromised civic purpose to secure cable investment in the 1980s, undermining cable's distinctive 'local' promise. Later regulation in 1990 was realigned to tempt the mostly US operators to invest without the burden of interference from local authorities, removing the objectives for cable to address and reflect a local civic sphere (Rushton, 1994: 43-44). In other northern European countries cable had secured almost universal reach among town as well as city households. Those households in the UK without the cable option were less likely to benefit later on from the competition driving faster broadband speeds. Without a regulator addressing service deficit, companies continue to over-supply on competing platforms. Recently Ofcom has found that

cable broadband availability was highest in London, where 61% of households could receive cable broadband services, and lowest in Wales, where less than a quarter of households (23%) were able to. Availability was higher in urban areas, where over half of all households (52%) could receive cable broadband services, than in rural areas where less than a quarter (23%) could do so (Ofcom, 2007: 5.1.1.3).

These findings were not entirely unforeseen but a consequence of policies that have eased commercial passage to reach more accessible customers, at the cost of abandoning those where new infrastructure is necessary to offer improved service (Rushton, 1993: 169-170, Rushton, 1994: 44, ACTO 22, 2006). Ofcom's recent exercise to enhance competition, local loop unbundling (LLU), has assisted broadband companies to access the BT digital exchanges that serve large numbers of households and businesses, resulting in "LLU availability in urban areas [at] 78% compared to 27% in rural areas" (Ofcom, 2007: 5.1.1.4).

Addressing this legacy Kip Meek, formerly of the Ofcom Board and now Chair of the Broadband Stakeholders Group (BSG), reported on 16 April 2007, that

broadband is the critical enabling infrastructure of our modern, knowledge-based economy and is an integral part of many people's lives. Yet ... the UK's current and planned broadband infrastructure may not meet the future needs of the most intensive users and we cannot assume the market will continue to deliver the ever-increasing bandwidth that many content providers and users increasingly expect (Broadband Stakeholders Group, 2007).

While the BBC reported that the Broadband Stakeholders Group favoured intervention, "Government should also explore models of how it might get involved in the creation of next generation networks to ensure that all parts of the UK get treated equally" (BBC, 2007). We return full circle, away from the certainties of the 1980s that commercial forces would drive communications infrastructure to benefit all, to a belated realisation, and half-hearted acknowledgement, that only public intervention can put in place communication networks that do not disadvantage economically as well as culturally some communities in order to favour heightened services for others to secure profitability at lower cost.

The electromagnetic 'wireless' spectrum has one distinct advantage over the 'built' infrastructures of cable and broadband: its availability has no regard for demographics, geography or commercial intentions. The idea that markets might offer a better and less wasteful regulation of the spectrum than central Government at Westminster has been promoted largely by Professor Martin Cave (2002). Support for markets to become the future communications regulators is presented by Cave as benign, offering positive social outcomes for national (UK) benefit. "Trading [spectrum] will give firms an incentive to husband the nation's resources of spectrum and direct it into the most profitable uses" (Cave 2006: 6). Yet, leaving selection of consumers to communications suppliers ensures that some areas receive worse services than others, and this relative poverty is compounded by poor motivation to build out infrastructure, focusing further competition on price among already served

customers. In particular, it is being proposed by Ofcom that digital spectrum should be configured into commercial packages to encourage operators to access the most easily reached communities, leaving the less useful and more fragmented spectrum for secondary markets, spectrum for piecemeal reassembly requiring more transmitters and relays to serve viable populations living in dispersed settlements (ref Annex One).

Cave characterises the public as having a legitimate interest in access to services that spectrum continues to provide, while convinced that the Government's "key strategic broadcasting goal is that public service broadcasts should be available to everyone, as now, free at the point of consumption" (Cave, 2002: 37). Yet, as identified, Ofcom's expectation of public service from those services receiving public funds, is no longer to ensure universal provision. After replacing the ITC in 2003 Ofcom was quick to reassess the scope of public service broadcasting and to withdraw this historic universal obligation. Ofcom instead encourages broadcasters to make their channels "widely available – if content is publicly funded, a large majority of citizens need to be given the chance to watch it" (Ofcom, 2003 and reprinted in full as Annex Two).

Taken together cable, high-speed broadband and new digital wireless services regulated by markets will significantly over-serve the same populations, with operators competing on price with no requirement to build-out networks beyond a potentially very flexible 'widely available' (ACTO 22, 2007). Meanwhile, terrestrial public service television in analogue and proposed digital forms still reaches almost all households (98.5%), but perhaps will only continue to do so until broadcasters weigh up the impact of heightened competition, abandoning the 'universal' obligation in favour of the lower more ambiguous 'widely available'.

The numbers of digital transmitters and relays required to reach 90% of UK households is only 80, compared with 1152 to serve 98.5%. The introduction of terrestrial high definition television (HDTV) may provide the moment at which commercial logic excludes universal delivery for the terrestrial HDTV public channels. As an alternative to digital terrestrial delivery, satellite offers as good a

coverage and is far more spectrum efficient for delivering large scale and pan-national channels. However, satellite is less effective and more expensive for the delivery of local and regional channels (including those for the UK nations). It is also the absent local and sub-regional channels, those serving smaller geographic communities that are better placed to make use of terrestrial spectrum most efficiently.

As the Government's principal adviser on spectrum trading, Martin Cave does not provide evidence to demonstrate how communications markets will improve spectrum efficiencies. In advocating 'improved efficiency' through commercial involvement, Cave and Ofcom both conflate the 'efficient use of spectrum' with 'spectrum's commercially efficient use'. A real test of efficiency in the public interest is whether or not specified public goals for spectrum efficiency can be achieved by commercial means, following the removal of public intervention, planning and regulation.

Cave writes in his Forward to the March 2002 *Review of Radio Spectrum Management*, "UK society derives unquantified value from spectrum use by a wide range of services, from defence to broadcasting, whose reasonable demands for spectrum have to be accommodated within any spectrum allocation regime" (Cave 2002: 14). Although Cave mentions this 'unquantified value' for society in his analysis, he does not offer any evidence from public stakeholders either to sustain their 'reasonable demand', but instead identifies his recommendations closely with one interest group, "guided by many of the responses which I have received, particularly from commercial organisations" (Cave 2002: 6). The public goals for communications, characterised as a common interest and represented through Government, are being recast as indirect public benefit arising from greater commercial profitability and innovation. Cave is confident that commercial flexibility will replace public intervention, suggesting that public service communications will only remain distinctive until market mechanisms mature sufficiently to satisfy all needs

the review recognises that there will remain a number of public services for which spectrum is a vital input and for which, in the absence of a fully fledged

spectrum market, the current regime of reserving sufficient frequency bands for the delivery of these services should continue through the medium term (Cave, 2002: 35).

The economic benefit to the public and the nations from a less fettered spectrum commercialisation is potentially the greater public spending available from larger corporation tax revenues in the form of anticipated Treasury receipts made by communications companies using spectrum to increase profitability. These benefits are not to be entirely confused, at least so far as Cave is concerned with the Treasury windfall from auctioning spectrum. Cave is aware that his motives in a report commissioned by the Treasury might readily be misconstrued:

One of my abiding concerns throughout the preparation of the report has been a widespread perception that spectrum charging is simply a device to raise money for the Government from private sector bodies or organisations such as the BBC. Revenue raising has not been an objective which has governed my recommendations (Cave, 2002:9).

Cave's principle objective is not characterised as being economic at all but to improve spectrum's efficiency in use, with that more efficient use generating as consequence a long-term economic advantage for the UK. The suggestion Cave makes is that commercial flexibility will be sufficient to ensure innovation and that communications markets will therefore achieve the public good. But with commercial engagement as the means not as end Cave makes an important distinction between spectrum's 'technical efficiency' and its 'commercial efficiency'. Cave's preference for market regulation to be the motor expresses no more than his hope for improved technical efficiency by this means. In contrast, we must be aware that the evidence of lighter cable and broadband regulation, of granting greater responsibility and fewer restrictions to commercial players, has not eliminated inefficiencies in the light of recent demands for intervention to achieve public ends and equitable distribution for cable and broadband. Although greater technical efficiency is distinguished as being the principal ambition 'technical efficiency' is not characterised separately by Ofcom.

Also it is far from clear that Ofcom is interested in even making a distinction between ‘technical’ and ‘commercial’ efficiency or even to explore the practical and economic outcome of reconstructing communications regulation as if it were primarily an economic and not a communications policy. In responding to Ofcom’s *Digital Dividend Review*, in March 2007, Ofcom’s Spectrum Advisory Board (OSAB) caution the regulator that “UK competitiveness should at least act as a brake on an excessive zeal towards pure spectrum auction approaches” (Ofcom’s Spectrum Advisory Board, 2007). It is clear that if the public benefits of spectrum trade are primarily to be taken up as Treasury receipts then there should be public discussion in the nations and economic regions of the UK of the merits of delegating economic regulation of communications further away from their own local capacities to intervene and make public intervention on behalf of local economic prosperity. Those less economically advantaged regions have some incentive if not expectation to use spectrum strategically to enhance their own economic contributions to GDP through increased local creative communications activity, to encourage more small-medium scale enterprise assignments.

For Cave, spectrum itself is simply a raw material for manufacture, “looking forward spectrum is an essential raw material for many of the UK’s most promising industries of the future” (Cave, 2002: 11). But a further key view from 2002 comes in a paper setting out to inform the Treasury on international spectrum agreements. Here Martin Kellaway of the National Statistics Office advises, “by international convention the spectrum is owned by the central Government of each country, and that ownership cannot be transferred” (Kellaway, 2002). Yet, in Germany and Spain local broadcasting regulation and licensing has been devolved to regional authorities, just as Cave would have spectrum use delegated in the UK to markets. In spite of Kellaway’s reservations, through Ofcom the Government has conceded that the principle of state control is able to be delegated, although as yet not contemplating devolving this responsibility to the lower tiers of public accountability in the nations and localities. The state’s international duty of responsibility regulates spectrum use at international borders, while it is a more intuitive narrative that explains the public’s consent to

approve spectrum's accumulation by the state and to maintain an internal monopoly on regulation. This narrative explains the historic spectrum plan for the UK as being reliant upon common agreement, a consensus that spectrum should be used to serve mutual public objectives rather than commercial ends. The state had initially annexed wireless for military and defence purposes and later justified its continued monopoly to prevent a commercial free-for-all for spectrum use for radio that would skew equality of access. This state monopoly of regulation embodies a common public purpose, amounting to a compact between citizen and state to support local instances of spectrum use being combined to fulfil this mutually beneficial national plan. In proposing to delegate spectrum regulation to commercial interests it is clear that the historic bond of consent is to be broken and, at Cave's suggestion, Government are to offer in its place management of spectrum by markets. Some in Westminster would appear sceptical, although these voices have had little influence to date. Yet Ofcom has already prepared the ground to reduce the threshold of universal reach to 'widely available' for those publicly funded services like the BBC (ref Annex Four).

Speaking during the January 2006 House of Lords Select Committee meeting on the BBC Charter Review Lord Armstrong of Ilminster said: "As I understand ... the [electromagnetic] spectrum is the property of the Government. I believe our access to it is controlled by international agreement. I would be grateful if you could confirm that" (House of Lords, 2006). Cave replied: "I think there still may be some residual uncertainty about precisely to whom the spectrum belongs" (see Annex Five). After an exchange of letters in the Scottish Parliament Chris Ballance MSP asked Deputy First Minister Nicol Stephen, "... who, if anyone, owns the electro-magnetic spectrum in Scotland, as distinct from who manages it?" Nicol Stephen replied: "The [Scottish] Executive's understanding is that there is no defined ownership of the electro-magnetic spectrum" (Scottish Parliament, 2006) while Stephen's stresses that it is Ofcom's role to 'manage spectrum'.

The House of Lords (House of Lords, 2006) also invited Dr David Cleevely to contribute evidence on the proposals to create a spectrum market. For Cleevely,

spectrum is not scarce but a significantly under-exploited resource, for broadcasters and for other potential users of spectrum. But, like Cave, Cleevely does not provide the Lords with evidence that technical efficiency gains will follow market regulation, instead urging the Lords to accept that people (other than Government) “might take the right kind of decisions in order for innovation to take place”. Here Cave and Cleevely imply that Government has failed in its responsibility to safeguard spectrum and to encourage sufficient innovation, inhibiting good management and creative use. Yet neither witness provides the Committee with evidence of better decision-making, technically efficient use or generally wanted services arising from commercial freedom from regulation.

In returning to this topic in 2006, Cave continues to emphasise that he believes commercial engagement is favoured to achieve spectrum’s technical efficiency use while “technically efficient spectrum use commends itself as a self-explanatory benefit. Indeed, technical efficiency may rationally count as the leading factor in spectrum allocation decisions” (Cave, 2006: 4). This is an important distinction giving priority ‘technically efficient spectrum’ in a way that is not reducible to commercial efficiencies. While it is being presumed as an act of faith by those intent to remove spectrum from public accountability that commercial drivers for greater commercial efficiency will inevitably be harnessed to achieve technically efficient ends, spectrum’s technical efficiency is not a necessary outcome of any such commercially efficient use or even commercially efficient purpose. There is no evidence that operator involvement in regulating the broadcasting bands will bring about any greater technical efficiency than the current regulation, and which if poor is a fundamental weakness of central Government, or as an alternative by regulation arising from a more localised and focused form of public intervention. One of the difficulties is semantic and linguistic, with spectrum use too readily equated with operator priorities, conceiving of spectrum as a raw material or as a property that might be ‘owned’ or transferred is a convenient commercial fiction. By characterising spectrum as object the transfer of rights, informing a use determined by auction and market trading, is

easier to understand although Kellaway (above) suggests that such a transfer could be only with significant international reservation.

As David Goldberg explained in a discussion arranged by the Cross Party Culture and Media Group of the Scottish Parliament,

think of the [spectrum] issue in terms of action (verb) not substance (noun), think in terms of spectrum use; there's no Platonic ideal spectrum lurking like the shadow in the cave (!). Spectrum classification is a human construct; it doesn't exist in nature. Radio communication is people communicating using emitters and receivers: the activity of using emitters modulating at a specific frequency and receivers tuned to receive the emission to enable/facilitate communication (Goldberg, 2007).

Goldberg's understanding of spectrum as 'action' rather than as 'substance' seems intuitively - or in Cave's terms 'rationally' - far better able to characterise technical efficiency because it enables us to identify correctly significance of the conjoint use of spectrum in its deployment or use. The emphasis on the economic or commercial user divorces the transmitting of signals from their reception where as an 'action' their also lie responsibilities for spectrum's efficient use and serve therefore to focus erroneously on the operator and discourage an understanding by Ofcom of identifiable and measurable technical efficiencies in spectrum's use. Spectrum is only of value to society as well as to commerce in its *use*, and that use involves both successful reception as well as transmission. If a signal is transmitted and not received the spectrum involved is entirely wasted, and not least from an economic view because such an unreceived transmission excludes use of that spectrum for signals that might be wanted and received (and which can be wanted if, as yet, untransmitted).

For the regulation of spectrum to be evidence based as required by Ofcom an efficient use of the electromagnetic spectrum calls for a common and agreed measurement of receptions from transmissions. For television broadcasting the transmitters and the installed base of domestic aerials and TVs provide the shared engineering elements of the transmission-reception relation, with both transmitting and receiving partners

involved in ensuring (or not) spectrum's technically efficient use. We might add that there is more to this necessary engagement of broadcasters with identifiable viewers and listeners than simply a technical expression of the spectrum use relationship. Householders typically buy and install their own receiving equipment while combined through the TV licence fee they all invest in building and maintaining the television transmitters, most recently in the replacement of the analogue transmission network in readiness for digital switchover, so that the licence fee contribution provides the core investment in television's digital infrastructure for spectrum used for television broadcasting. By sleight of hand, in objectifying spectrum as raw material or transferable asset Ofcom falsely favours with exclusive interest the operator supply-side interests in spectrum use, leaving the public as citizens and consumers as forgotten and unacknowledged stakeholders. Yet the public are the very real economic investors in the broadcasting system that uses spectrum for television.

A simple equation expresses technically efficient spectrum use as the difference between the number of television viewers able to receive a channel and the number actually watching or recording that channel. This satisfies requirements on both Cave and Ofcom to provide evidence of technically efficient and wasteful spectrum use and to determine broadcast spectrum efficiency (BSE). BSE equals the product of Numbers watching (N_w) and Minutes (t_v) of viewing over the product of Number of licensees in the transmission area (N_l) and Minutes of broadcast time (t_b).

$$BSE = \frac{N_w \times t_v}{N_l \times t_b}$$

It is this formula, rather than Cave or Ofcom's economic opinions that err 100% to spectrum's supply side, that offers a scientific measurement of spectrum's technical efficiency in broadcasting use, ensuring an independent assessment of the extent of waste in each instance of broadcast television transmission.

The 2003 Communications Act requires Ofcom to secure the optimal use of spectrum throughout the UK. Yet Ofcom's spectrum proposals contained in the *Digital*

Dividend Review (2006) and since recommend that licensees partition spectrum by frequency and geographic location, and offer any surplus for sale and possible re-use. Under such a plan spectrum use becomes fragmented and divided into commercial packages according to ease of access to wanted viewers. It is therefore very likely that future public intervention will be necessary to retrieve and recombine spectrum from secondary markets, to compulsory purchase to fill in gaps created purely to achieve those commercially profitable objectives made in purchasing access to spectrum. This belated public intervention is now considered more a safety-net, an idea that is strongly at odds with the public objective of a sustained compact between the public and the state to coalesce spectrum uses, derived from possible points of local distribution, established to construct and sustain public broadcasting services. Any stepping aside by the state from the terms of this compact implicitly reneges on the agreement with the listener and viewer. Evidence of demand for new public services researched by Ofcom (see Chapter Two) suggests that it is not commercial delegation but a new compact between state and listener/viewer that is necessary to decentralise spectrum regulation to facilitate locally accountable public service spectrum use.

Local, regional and, more recently, devolved governments are considering how spectrum might be used for local services tailored to the economic needs and cultural aspirations of those in their administrative areas. This involves exploring legislation and regulation in order to secure local access, to tackle economic, democratic and cultural inequalities that have become reinforced by commercial services being introduced under a misplaced state patronage (see Annex Six). At the Scottish parliamentary elections of 3 May 2007, the electorate voted in favour of providing for local and community media and/or broadcasting devolution from the digital dividend (see Annex Seven). Viewer studies conducted or commissioned by the regulator and others since the 1950s have shown strong demand for localised public service television as a 'third tier' of broadcasting (eg Holden Pearmain and ORC International, 2006). The public's objective remains for local TV be seen on TV, at least until broadband capacity and use is equally available for all (MORI, 2005: 36) and to serve all communities on a universal basis (Sancho, 2002: 30).

Lord Sandy Bruce-Lockhart, Chairman of the Local Government Association wrote recently (12 June 2007) to Lord Currie, Chair of Ofcom:

Television is still the greatest source of information flow. I believe that it is essential for television to have a stronger element of regional and particularly local news and programmes. Local means areas of governance such as cities and shires. ... The changes in Government policy and in the Local Government Bill are very much about emphasising the importance of 'place', the fostering of a sense of local identity and belonging. But they are also about needing to hold local decision makers to account locally, through local Select Committees, local council leaders, and those that head up the NHS, Police and other local public institutions. Again this requires public awareness to create interest. Each of these challenges would be greatly advanced by local television (Williams, 2007).

On 19 September 2006 Alex Neil MSP, Chair of the Culture and Enterprise Committee of the Scottish Parliament, had earlier written to Lord Currie, Chair of Ofcom:

I am writing to you to request that no decisions are made on the use of broadcast spectrum that exclude the introduction of Local TV channels with DTT roll out to reach all households in Scotland. Furthermore, spectrum should not be allocated or regulated so as to restrict or inhibit the introduction in future of new independent public channels from and for Scotland (see Annex Eight).

CONCLUSION

Economic views of spectrum use, following Martin Cave's report (Cave, 2002), have refocused the language of communications regulation "on the feelings and attitudes of the participants in the discourse"(Searle, 2006: 26). Shifting spectrum regulation further into markets will absolve the Government and Ofcom as well as the operators

of responsibility for spectrum by defining its value and any resulting waste in market rather than technically efficient terms (see Annex Nine).

The regulation of the electromagnetic spectrum has represented, and might continue to represent, a democratic purpose, providing a shared benefit however sub-divided to achieve coherence with local public demands to maintain this 'common good' (Shirky, 2004). For spectrum to retain its public value the devolved administrations and local authorities must assert spectrum's democratic and its more local economic value, securing spectrum use for each nation, region and local area to introduce a more reflective communications under local regulation and accountability.

POSTSCRIPT (December 2007)

Since completion of research and drafting in Spring-Summer 2007, Ofcom has conducted further work on local TV (and other possible uses of the digital dividend spectrum). In their recent market research (Ofcom, 2007a) local TV continues to feature as a high priority for the public. In new technical studies conducted for Ofcom by National Grid Wireless (2007) 71 (of 80) main transmitter sites have been identified from which local TV services might be transmitted, most within the prevailing aerial group: this is up from 26 suggested in early 2007 (Ofcom, 2007b).

The new study offers spectrum able to deliver upwards of 700 local TV channels across 80% of the UK. However, this interleaved spectrum option (Ofcom 2007b) remains subject to auction, details of which will be put to consultation in Spring 2008.

The difficulties of building a local TV network piecemeal have recently brought the commercial, community and the municipal local TV lobbies together to write to Ofcom and the Department for Culture, Media and Sport (see Annex Ten).

In what remains a volatile period for local TV the author continues to be involved on a technical and organisational basis through the Institute of Local Television, ACTO, Media Access Projects Scotland and ULTV advising local authorities, community

media centres and the UK analogue RSLs on securing local TV at digital switchover, making submissions on the general case as well as in detail to Ofcom and to the Scottish Broadcasting Commission appointed by Scotland's First Minister Alex Salmond in August 2007.

FURTHER READING – OUTPUTS 2005-2007

INTRODUCTION

With the introduction of 'stakeholders' Ofcom invited on-going responses from a self-selecting group, largely from those who had an historical 'stake' as service suppliers and operators in broadcasting and communications. Stakeholders are regularly invited to attend Ofcom's briefings and presentations and as a result are better informed to respond to Ofcom's consultations, to work within the regulatory timeframe to represent their points of view. Local public service television has an interest in access to both spectrum and for recognition as public service broadcasting and has developed and input its views as an aspirant 'stakeholder'.

From 2004 I thought it necessary to develop a wider 'non-stakeholder' stakeholder contribution to participate in the Ofcom discourse. From informal contacts in 2005 ACTO was formed as an open advisory group to work with the Institute of Local Television. ACTO became a clearing house to maintain a platform for local TV discussion and representation among a sector with little present recognition and to represent shared views to the regulator: in particular to alert those outside the charmed circle of stakeholders to issues that could impact upon their future plans.

With support provided by the Institute of Local Television and ACTO the 'local TV sector' has maintained a strong and consistent input to Ofcom's consultations, to the extent that coordinating and drafting consultation responses has been virtually a full time job between 2004 and 2007.

The ACTO directories consist of an open a dialogue on local TV and have been circulated as .pdf files, at one point to 1500 email addresses (including all MPs,

several Lords, MSPs, some AMs, as well as to production companies, community media centres, NGOs, consumer and voluntary associations as well as City Learning Centres). ACTO and ILT have been holding an annual Local TV Forum since 2005 – the last was held in Aberdeen in April 2008. The 2007 Forum was replaced by a meeting at the Scottish Parliament held in advance of Ofcom’s first Digital Dividend Review, the responses from that meeting were gathered as ‘publicinterest.pdf’ and forwarded as a response to the DDR consultation.

ACTO’s role has been to contribute a broader less ‘incumbent stakeholder’ point of view to Ofcom and its fortnightly .pdf publications served to ‘keep up with’ an accelerating cycle of review and response that Ofcom initiated after its launch in 2003, in part driven by the impending digital switchover timetable.

(The range of local TV contributions to Ofcom encouraged or supported by ILT and ACTO can be traced by looking back over past responses to consultations on the Ofcom website. The ACTO files remain for downloading from <http://www.maccess.org.uk/members/ilt.html>.)

Since December 2007 the commercial, municipal and community interests represented in acquiring spectrum and local TV licenses met and agreed to form ULTV – United for Local Television. Meanwhile ACTO remains active in helping coordinate the annual local TV forums in Scotland supporting ULTV to address the bigger UK picture while maintaining a broader municipal interest in local TV than Ofcom had until recently been willing to recognise.

The following ACTO papers are a sample of written responses mostly quickly drafted and put into rapid circulation, usually before or after Ofcom presentations and often in preparation for one or other of the many consultations on public service broadcasting and spectrum use that Ofcom has undertaken since 2003.

With traditional academic publishing and later ILT's own imprint it became impossible to keep-up with Ofcom let alone get-ahead of the pace of communications regulation. The 'electronic' response of ACTO's local public service television directories represents the most recent phase of remaining in contact with and influencing the communications policy narrative. For academic 'catch-up' purposes two volumes of ACTO Compilations were later published on-demand.

CONTRIBUTION: Maintaining the narrative for local television as public service broadcasting in spectrum and PSB debates and consultations. Spectrum has been offered for local TV as a result of this extended intervention and the Secretary of State at the Department for Culture Media and Sport is giving consideration to the introduction of 'local public service television' following interventions by ULTV and the Institute of Local Television.

Ofcom requested the Institute of Local Television coordinate local TV response for Scotland (February 2008) resulting in further work on spectrum for Scotland being carried out by ngwireless to provide local spectrum at each transmitter site. A Scottish 'seventh multiplex' of five channels has also been identified, offering a possible local TV service throughout Scotland with 'public service' levels of coverage. This work from Scotland is strongly reflected in Ofcom's Second PSB Review: Phase 2 published on 25 September 2008 and in the responses to the Digital Dividend Review; Interleaved Spectrum Awards Consultation that closed on 21 August 2008. Both available on the Ofcom website.

OUTPUTS

Rushton, D '**Local Public Service Television: consumer research and spectrum issues with Ofcom's 'Digital Dividend Review''** *ACTO 25.pdf* (January 2007)

CONTENTS: Paper presented at the Scottish Ofcom consultation event to introduce Ofcom's DDR, CoSLA, Edinburgh. <http://www.maccess.org.uk/members/ilt.html> (last checked 24/10/07)

Rushton, D ‘**Local Digital Snapshot: after the Digital Dividend Review**’, and ‘**Spectrum Matters**’ *ACTO 30.pdf* (May 2007)

CONTENTS: Papers based on presentations on the impact on local TV of the Ofcom DDR recommendations after the Scottish Parliament and Welsh Assembly elections and a contribution to Westminster eForum Keynote Seminar.

<http://www.maccess.org.uk/members/ilt.html> (last checked 24/10/07)

publicinterest.pdf (February 2007) Compilation following a meeting at the Scottish Parliament - Scotland’s Public Service Spectrum and index of related ACTO papers submitted to Ofcom’s Digital Dividend Review, February 2007

<http://www.ofcom.org.uk/consult/condocs/ddr/responses/nr/>

then go to ‘public interest fellow university of strathclyde’ to download (last checked 24/10/07)

ACTO – 2005-2006 Compilations

Rushton, D (ed) *LOCAL television REPORT - ACTO local public service television papers, VOLUME ONE*, School Press/ACTO/Institute of Local Television, (December 2005). CONTENTS I Preamble. ii Introduction. ONE Questions & Answers: Natalie White’s: Questions on the Future of Local Television; Ofcom’s: Assessing the Future of Local Television and Interactive Services: A Survey for Stakeholders. TWO European Background: Assessing Opportunities for Local TV Across Europe; THREE Case Histories: Triangle TV Auckland; Open Channels Germany; Open Channel Berlin; Teveline: Reality Show vs Real People; Channel Six Dundee plus Audience Research; ‘e-tv’ in Aberfeldy. FOUR Local Spectrum & Costs: The Add/drop Solution and Local Network Channel; How Big or Small is Local TV?; A Stab at Local TV Costs. FIVE Shifting Policies: Media Literacy, Local Licences and Local Government; God’s Own Spectrum: Local TV and the Public Good; Regional Variations in Production Spend; Bigger Picture on the Smaller Screen; Valuing Local Public Service Television. SIX Nutshell: ACTO Checklist to Ofcom, April 2005.

Papers from editions 11-20 of ACTO have been compiled into *LOCAL television REPORT - VOLUME TWO* - including an interview on DVD conducted by Marsha Ramroop of BBC Local TV West Midlands with Dave Rushton, Director Institute of Local Television, on Why independent Local TV?

Rushton, D (ed) *LOCAL television REPORT - ACTO local public service television papers, VOLUME TWO*, School Press/ACTO/Institute of Local Television, (September 2006). Softback. CONTENTS Introduction, ONE Review & Analysis: Ofcom's Digital Local: Options for the future of local video content and interactive services, Ofcom's Digital Local: Response and Further Review. TWO Local Public Service Television Broadcasting: What is not clear about Public Service?, European Local Public Service Television, Delivering Ofcom's Digital Local with Public Purpose. THREE European Background: Assessing Opportunities for Local TV Across Europe, John Glover, Ofcom. FOUR: MORI's Local TV Study for Ofcom, Speed Reading MORI's 'Programmes in the Nations'. FIVE: Local TV: Who's interested? Scottish Local TV Forum Peter Williams, Kent; Eva Dekanovska, Slovakia; Nic Millington, Herefordshire; Brendan Murphy, Perthshire. Borders Local TV Briefing Scottish Borders Council, John Askew; Fife, MiMAC, Fife, Graeme Campbell; Belfast NvTv, Northern Visions. SIX Digital Frontline: Technical Overview, Programming Introduction, Grant & Production Funded Local TV. SEVEN Switchover and the Consumer: Trisha McAuley, Scottish Consumer Council. SEVEN Local DTT Engineering: Achilles' Heel or Fall Guy?, Add/Drop, Serge Francois, Terayon.

REFERENCES

- ACTO 22 (2006) <http://www.maccess.org.uk/members/ilt.html> (last checked 24/10/07)
- BBC (2007) <http://news.bbc.co.uk/1/hi/technology/6552823.stm> (last checked 24/10/07)
- Broadband Stakeholders Group (2007) <http://www.broadbanduk.org/content/view/236/7/> (last checked 24/10/07)
- Cave, M (2002) *Review of Radio Spectrum Management*, DTI: 37, 14, 6, 35, 9, 11

Cave, M, Foster, A and Jones R W (2006) 'The Development of digital television in the UK', in *Radio Spectrum Management: Overview and Trends*, www.ictregulationtoolkit.org/files

Goldberg, D (2007) *The legal status of transferring licences for spectrum use as commercial trade and spectrum ownership*, notes for Scotland's Public Service Spectrum, February 14 2007 and reprinted in *ACTO 28*

Holden Pearmain and ORC International (2006)

House of Lords (2006) January 2006, BBC Charter Review, Minutes of Evidence, 11 June 2006

Kellaway, M (2002) *Classification of Government Receipts from Allowing Use of Spectrum*, www.oecd.org/dataoecd/55/42/31560262.pdf (last checked 01/01/2008)

MORI (2005) study for Ofcom conducted by MORI, titled *Programmes in the Nations: A summary of the qualitative and quantitative audience research carried out for Phase 3 of the PSB Review: 36*
http://www.ofcom.org.uk/consult/condocs/psb3/views_in_the_nations.pdf (last checked 24/10/07)

National Grid Wireless (2007), *Interleaved Spectrum Study* (Ofcom Regulatory Statement – ANNEXES), www.ofcom.org.uk/consult/condocs/ddr/statement/ (last checked 01/01/2008)

Ofcom (2003) *Public Service Broadcasting Review*, Ofcom

Ofcom (2006) *Digital Dividend Review*, Ofcom

Ofcom (2007) *The Communications Market 2007: Nations and Regions*: para 5.1.1.3. www.ofcom.org.uk/research/cm/cm07/uk/uk5.pdf (last checked 24/10/07)

Ofcom (2007a) *Digital Dividend Review – Regulatory Statement*, Ofcom, www.ofcom.org.uk/consult/condocs/ddr/statement/ (last checked 01/01/2008)

Ofcom (2007b) *Technical Options*, Ofcom www.ofcom.org.uk/radiocomms/ddr/documents/tech_tv/tech.pdf

Ofcom (2007c) *ITV network cross-subsidy of transmission costs*, e-mail from Lauren Cleeverly, Licensing Executive, TV Broadcasting Licensing, Ofcom

Ofcom's Spectrum Advisory Board (2007) <http://www.ofcom.org.uk/consult/condocs/ddr/responses/nr/> (last checked 24/10/07)

- Rushton, D (1993) 'A Local Future on Cable' in Rushton, D, (ed) *Citizen Television: a local dimension to Public Service Broadcasting*, published by John Libbey & Institute of Local Television: 169-170
- Rushton, D (1994) *Local Television Reviewed: essays in local television, 1982-1993*, John Libbey & Institute of Local Television: 44
- Sancho (2002) *Pride of Place*, ITC: 30
- Scottish Parliament (2006) <http://www.scottish.parliament.uk/business.pqa/wa-06/wa1114.htm>
- Searle, J R (2006) 'What is an Institution?' *Institutional Critique: Volume 2 of the Southern California Consortium of Art Schools Symposia*, jrp/ringier: 26
- Shirky, C (2004) 'The Possibility of Spectrum as a Public Good' in *Economics & Culture, Media & Community*, Open Source
- Williams, P (2007) quoted in article in *Kent Messenger*
<http://www.kentonline.co.uk/business>

CHAPTER TWO: Local Identity

Before the UK's commercial television channels began broadcasting in the mid 1950s, the Independent Television Authority (ITA) considered the likely political damage of not providing regional services focused on those large communities that regarded themselves as distinctive. In considering Scotland the ITA explored a separate service for Glasgow and Edinburgh, noting in a Confidential Memo

we may as well face here the question whether the Edinburgh station would support a programme contractor of its own. I think we must certainly assume that it would. If it cannot, then it would mean our development would never cover areas of 1.5 million people or less and this would limit us to 8 stations in all. Such a proposition seems entirely untenable especially as in the USA almost all communities with over two million inhabitants support three stations or more (ITA, 1955: paper/55/51).

A separate Edinburgh and Glasgow service "would have the advantage of taking account of the existence of two separate communities, would allow us to accommodate two contractors instead of one and would give better coverage".

However, less than a year later short-listed proposals indicate that contest is for a single station, with Roy Thomson the Canadian broadcaster and owner of The Scotsman newspaper, a Mr Gordon Kyle and The Daily Express in competition. Of these three the ITA notes that it is only Roy Thomson who "claims to have the necessary finance" (ITA, 1955: paper/55/51:2).

A year later, with Thomson's proposal accepted the ITA Director General Sir Robert Fraser received a late indication from Thomson that he does not intend to pay the transmission fee that had been agreed with applicants. To avoid restarting the selection process Fraser writes to Thomson in despair

I wish to goodness you had let me know at a much earlier stage during our series of discussions about Scotland that you would not in fact feel able to pay an annual rental of more than £190,000 ... I am now having to hold up our orders for equipment for Scotland ... We plainly cannot sign a contract for

Scotland at a figure significantly below that mentioned to the twenty or so applicants without giving each one of them a chance to apply again. (ITA, 1956: Paper 28 (56:2))

Against his own advice, Fraser then proposes to Thomson that the ITA announce that a “sufficient reason” for the cause of the delay to agree rental terms should be attributed to “the national economic situation, and the central need for cuts in capital expenditure outside the direct field of industrial production” (ITA, 1956: Paper 28 (56:2)). Although the regulator had reconciled commercial rationale with public support for two channels, as negotiations proceed to their climax the operator preference for a single channel is the crucially influential. So much so the regulator colludes with the favoured contractor to cloud the reasons for delay, providing here an early indication of the collapse of a public purpose to regulation when applied later to cable (see Chapter Three: Accommodating Local TV in Regulation, Legislation and Engineering).

Twenty years after ITV’s birth the viewing public were advising the Independent Broadcasting Authority that ‘regional news’ was proving remote and often irrelevant. In responses from three out of four UK regions, sampled in October 1976, “30%, to 40% of viewers say that the news magazine deals too much with local news in other areas [in the TV region]” (IBA, 1976: para 4.6). The IBA concluded “what is attractive is material which reinforces personal identity, the sight of people or places known or recognised, and historical or cultural explorations of the local background to personal identity” (IBA, 1976: para 4.6). With the demand for relevance becoming more evident the regulator concluded that when new engineering opportunities for television transmission arise what would be “welcomed would be social and cultural material of an identity-reflecting and enhancing nature” (IBA, 1976: para 4.8).

In providing evidence to the Committee on the Future of Broadcasting (1973: para 121) the IBA had already noted the technical feasibility “for separate local interest programmes to be transmitted from a station, or stations, covering parts of the [ITV]

contract area. They are a possible development of ITV's regional structure". A year later, the Crawford Committee Report agreed that "separate news programmes ... could make a valuable contribution to meeting the demands of viewers for a more localised service", adding that "an interest in regional programme variations grows in importance, as viewers become more selective and more aware of local loyalties and interests ... there would be an advantage in the number of areas into which the United Kingdom is divided by the BBC and the IBA for regional programme purposes being increased" (Crawford, 1974: 36).

In 1977 the IBA published *Attitudes Towards Localised Television Services* finding Edinburgh still "more local in its inhabitant's experience and feelings" than some other places surveyed. Drawing its conclusions from inquiries made throughout four regions, the study found that, "viewers do say that they would like to see TV coverage of places which are closer to where they live ... more so than they wish to see coverage of more distant places ... served by the same TV company" and that "the interest in nearby places emerges principally from an interest in the immediate locality". For the Edinburgh area they were more explicit, finding "there is considerable implied appetite for more local news, in that from 55% to 65% of viewers say the ITV news magazine doesn't cover enough interesting local news" (IBA, 1977).

A common criticism of Birmingham's Central News in 1984, "was a feeling that the programme concentrated too much on controversial or superficial padding, sometimes at the expense of more serious or worthy items, and sometimes to allow presenters to push their own personalities" (Kerr, 1984b: 4). Here news presentation, rather than news content, was favourably received as "'friendly', 'relaxed' and 'human'" (Kerr, 1984b: 4). With 'entertaining' cropping up frequently in responses Kerr was puzzled by this "unusual description for a local news programme" (Kerr, 1984b: 4). Viewers in central Scotland were also concerned with "presentation, which many viewers considered 'amateurish', 'flippant' and 'superficial'". While here Kerr found that "items, particularly those of a serious nature, were rushed, cut short, or allowed too

little time, and there was for some viewers a lack of depth and detail. Some of the existing material is considered boring and repetitive” (Kerr, 1984a: 3).

The former journalist Andrew Boyd suggests, “for a [news] story to have impact, it has to be relevant. For news to be relevant, it has to have proximity to an audience” (Boyd, 1993: 1). Yet with current regional transmission the news that viewers find relevant to themselves is missing for most of the broadcast time, denied or obscured by the discomfiting compromise of serving a regional scale. In justification for what is presented, Boyd characterises the news editor’s role as arbitrating between relevant information and entertainment, needing to balance viewer ratings in competition with other sources of news and entertainment.

The IBA/ITC *Mapping Regional Views* study (1990) found news about a person’s own locality or district as “of primary importance [for] most people (88%)”. In this study it becomes very clear that regional television occupies, on something akin to military terms, its transmission territory and broadcast airtime, blatantly confusing what is felt to be ‘local’ with what can be passed off as ‘regional’ (if called local), overlooking the evident and experienced local identification in the public’s comments in *Mapping Regional Views* (Rushton, 1993: 116-132). A decade after the IBA and Crawford Committee had recommended a more localised service, television engineering offered opportunities to introduce new channels, including local TV on both fifth and sixth channel spectrum (identified in 1988) as well as a reassessment of the appropriate scale of commercial regional coverage in licence renewal rounds. And yet, in spite of the longstanding recommendations pressing the local case, Government favoured greater channel choice with further large-scale commercial channels.

The IBA’s studies from this period strongly doubt that the Government’s preference for ‘channel choice’ reflected public support or would actually result in improved viewer satisfaction. In 1988 the IBA found there was no link between “an increase in availability [of channels and] greater appreciation” (Wober and Kilpatrick, 1988: 9). For while greater channel availability increased programme supply “people may yet

find the end result no more satisfying”. More channels served to heighten competition for viewer attention, undermining channel complementarity, where programmes are transmitted to avoid clashes between similar programme types. Yet there seemed no turning back.

It is not possible to enforce a policy of complementarity where new channels or sets of channels compete outside of a given control body; so any unregulated addition of new channels is likely to increase the amount of ‘redundant availability’ across TV viewing” (Wober and Kilpatrick, 1988: 9).

As multi-channel has extended to terrestrial transmission there are still only a handful of channels regularly watched. Spectrum wastage in terrestrial transmission of multi-choice increases proportionately, and massively, with each channel added (see Annex Three).

Television programmes differ from other consumer goods: if they are not watched they are lost to the viewer, or not ‘consumed’ and Wober and Kilpatrick conclude that, when measured using “the same ‘instrument’ before and after a change [from complementarity to multi-channel choice] ... people adapt to the array of what is available so ‘well’, that they evince no greater satisfaction with greater than with less programme availability” (Wober and Kilpatrick, 1988: 17-18).

Reducing spectrum wastage has been a longstanding regulatory ambition. Yet, far from addressing wastage, multi-channel choice actually fosters a flagrant abuse of spectrum under the guise of a Government response to a specious consumer demand. The choices offered are not those the consumer often makes and, in terms of spectrum efficiency, multiple but large scale minority interest channels exclude delivery of greater diversity or variety by small scale terrestrial means. With multi-channel firmly in place by 1995, the Shadow Minister for Broadcasting, Graham Allen MP, reflected upon the realisation that Wober and Kilpatrick had predicted,

yet again there is a gaping hole in the Government’s proposals to provide local services rather than more of the same. In Bruce Springsteen’s words, “two

hundred channels and nothing to watch.” If the Government became involved and took action, the alternative could be a burst of creative variety in local programming. The need for such variety will not be met by the satellite television companies’ introducing many dozens of channels - possibly more than 100. They do not wish to enter that market, and we shall have to look elsewhere for local provision. (Hansard, 1995)

In 1989, to better understand and anticipate the ‘public’s view’ the IBA conducted a detailed study of public opinion to provide a benchmark against which “to assess the future developments, [and provide] an aid to future planning, and a route for viewers’ and listeners’ opinions to be heard” (Svennevig, 1989: 5). This study included a nationwide survey of public attitudes, opinions and knowledge about the state of broadcasting and its “likely future” (Svennevig, 1989: 5). Although the majority of viewers felt there was quite a lot of television regulation, this regulation was not ‘too much’ and “overall the majority of six in ten viewers felt the amount of regulation was about right, while one in four felt there was too little” (Svennevig, 1989: 7). Across all demographic groups, 79% favoured the continuing supervision or regulation of broadcasting (Svennevig, 1989: 9). Less than one in five viewers believed these new channels would offer improved quality, with 39% believing they were likely to be of worse quality than current channels (Svennevig, 1989: 12). And yet, for the majority of viewers, “quality is paramount, and given the choice in principle between quality and quantity, opt for the former rather than the latter. Nine in ten viewers want better quality programmes, rather than more channels” (Svennevig, 1989: 13).

In 1989 the IBA set out to assess the expectation that television satisfaction would improve with the multi-channel television proposals, concluding “what is noticeable ... is the absence of large scale special pleading [among viewer’s questioned] for more of those programme types which are often claimed as representing the shape of things to come – quiz shows, sport, soap operas” (Svennevig, 1989: 2). Svennevig felt that introducing further channels was unlikely to have a positive outcome, although in spite of public demand and research evidence battle lines were being drawn with, on

the

one side, the Government's White Paper [*Broadcasting in the '90s*, which] states that the most effective way to give viewers choice is to increase the number of channels available. Against this is the argument which states that maximum choice is achieved through scheduling diversity and range on fewer channels (Svennevig 1989: 5).

The Broadcast Bill of 1995, and the anticipation of digital terrestrial television, provided an opportunity for parliamentary debate on public priorities, with the opposition shadow Broadcasting Minister, Graham Allen MP, concerned that cable and multi-channel choice had not increased opportunity, promising that with a change of government digital would not be squandered.

History, unfortunately, will judge that this Government have consistently failed to encourage local television, especially through the cable era ... The big network players - the BBC and the independent television companies - should see local television as an opportunity and not as a threat to their existence. We will explore ways in which to empower the ITC to ensure a strong, local element in a modern, diverse and democratic media. We will ensure that the digital revolution can spawn many local channels. That, again, will be a suitable complement to Labour's devolution of power to the localities, regions and nations of the United Kingdom. Sadly, this Government's broadcasting policy has meant that television has been degraded (Hansard, 1995).

The ITC's final study on regional television, before handing its regulatory duties over to Ofcom, was conducted in 2002. Titled *Pride of Place* Jane Sancho explored possible replacement of regional ITV programming, should the commercial operator decide "it can't afford to produce regional programmes so it stops showing them" (Sancho, 2002: 29). Sancho finds support for replacing the regional service with a "network of local television services (RSLs) broadcast[ing] local programmes across the country" (Sancho 2002: 29). The study's jury in the north of England had access to the local RSL, Channel M. This jury valued its local service for encouraging local

expression, while adding that the absence of a local channel in some areas “was unacceptable, as was the fact that local news might not be provided because the costs would be prohibitive” (Sancho, 2002: 30). A study from BBC Scotland, *Journalism Review 2003*, evidences the continued demand in Scotland, some fifty years after TV’s public and commercial regions were established, for a local television news bulletin, wanting “5–10 minutes of local television news within the 6-7pm news hour on BBC1 (81% interested, only 8% not interested)” (BBC, 2003: 13). Yet in spite of acknowledging the need to address this deficit at the time, BBC Scotland’s considered response explores how to satisfy the demand for local TV ‘as TV’ by examining instead how BBC Scotland “might provide a stronger regional news service considering the options for all services – radio, television and online” (Peat, 2006: 13).

A study in 2006, commissioned by Ofcom from Holden Pearmain and ORC International (2006), found television viewers highly critical of the quality of many of the channels introduced in the 1990s by Ofcom’s predecessor, the ITC. This study’s respondents found the commercial channels wasteful of spectrum and of poor quality. Holden Pearmain and ORC International found the public antagonistic towards Ofcom’s proposal to encourage markets to regulate the use of spectrum freed up after digital switchover. Local news and local information are found to be the most valued services that the public would like to see introduced on freed up spectrum (Holden Pearmain and ORC International, 2006: 5.27). At every opportunity the respondents’ advocate a more interventionist stance from the Government, in order to maintain shared public objectives through spectrum use, while seeking reassurances from Ofcom that universal coverage will prevail for the new digital TV services. Holden Pearmain and ORC International afford a glimpse of the void that lies between public aspiration and regulatory imposition, finding viewers wanting greater vigilance and not weaker, lighter or more ethereal regulation, requiring Ofcom to supervise television operators the viewer does not trust to provide either quality or equal provision of wanted public services. Perhaps the most damning “common opinion [was] that as the airwaves are a national resource, some control should remain with the Government. If this does not happen then what was once available as a ‘public’

resource may be used for services that do not benefit society” (Holden Pearmain and ORC International, 2006: 8.16).

Fifty years after the introduction of that single central Scotland commercial TV service Ofcom justifies replacing regional programmes throughout the UK with more cheaply made national and acquired programmes based on ‘opportunity cost’ (Foster, Egan and Simon, 2004: 20). That is, rather than replace a regional TV service with a wanted and demanded more local service, to satisfy viewer interests in ways consistent with public assessment and viable commercial scales, the alternative favoured on an economic model presses public service further into a UK and abstracted commercial mould. The conceit, that the author explores in Chapter One, is that spectrum is to be made free from public accountability, to pass into private hands through auctions, markets and secondary trading on the basis of an economic opinion, without evidence of better results and at odds with public consent. The market research consultations have clearly shown spectrum markets as, at best, a contentious idea and they provide sufficient evidence to suggest overwhelming rejection should the public be fully consulted.

There was unanimous agreement in the groups that some form of intervention was necessary to ensure that services that are valuable to society are made available to the maximum number of people. Respondents felt that the private sector alone, being motivated by profit, would not necessarily deliver services that are valuable to society (Holden Pearmain and ORC International, 2006: 8.11).

Without public intervention, future communication markets will serve best only those capable of being easily reached by a commercially viable package of spectrum uses, because “consumer interests arise following the establishment of a market, in which individual consumers make decisions about the acquisition and/or use of goods and services which are provided by suppliers” (Ofcom, 2006: A7.11). In communication markets the consumer is not individually able to increase supply through personal demand because what influences the construction, scale and viability of markets is the

location of consumers close together and close to the source(s) of distribution. Ofcom supports the creation of markets that enable consumption subject to the operator's understanding of access. For terrestrial television communications, for cable and high-speed broadband, these markets are built around the reach of transmitters and the bandwidth of cable and the ready location of digital switches. It is network capacity rather than demand from consumers as individuals that determines commercial efficiency in delivering communications services to households on a local as well as regional scale.

In the course of the last fifty years a repeated if moderate voice has been recorded reminding Government, regulator and broadcaster that the public require broadcast supply to fit the contours of civil society, not to have civil society conform to the contours of commercially satisfactory economics. As the author suggests, the evidence of the public's view has been ignored, even wilfully distorted, pushed aside to favour commercial 'cherry-picking' to deliver a supposedly greater choice through multi-channel broadcasting which, for many, offers no real choice at all. In 1989, the IBA argued that multi-channel choice would not necessarily enable greater choice but would certainly increase spectrum wastage, providing redundant programming in a heightened competition as generally less watched channels chased each other for viewer attention. Multi-channel choice has undermined public purpose (on commercial television) and, as suggested in Chapter One, now seems set to threaten universal reach and the potential more localised innovations in public service communications the public has actually prioritised (Sancho, 2002: 30, Holden Pearmain and ORC International, 2006:8.16).

Rather than respond to this evidence by tailoring services to address demand, Ofcom has encouraged ITV to withdraw from regional (non-news) public service programming during digital switchover, to enable the commercial public service to compete on commercial terms with channels not required to provide universal coverage or satisfy public purpose. Where does this leave ITV's public obligations? Ofcom offer no evidence that heightened competition will improve the quality or

extend the purpose of commercial or public service television. In withdrawing from public service obligations ITV are not giving up public service spectrum (with access to 98.5% of homes) or their prominent position on electronic programme guides. Instead of building upon Sancho's (2002) study for the ITC, and introducing local TV to replace the regional loss across all areas of the country, Ofcom has refused to extend the restricted services license for analogue local TV into digital transmission or to progress proposals for a national local frequency plan. The regulator disapproves of a comprehensive universal local public TV service, using add/drop technology (see Chapter Three), suggesting local TV has to compete at auction for local spectrum. And yet universal access to local television as a public service remains the public's requirement from Ofcom evident in studies by MORI (2005) and Holden Pearmain and ORC International (2006). While, in Scotland, four years have now passed since the BBC's *Journalism Review 2003* found overwhelming public support for 5-10 minutes of local news within the 6-7pm TV news slot.

FURTHER READING – OUTPUTS: 1993-1995

INTRODUCTION

I've selected three outputs for this Chapter. 'Reading the ITC's Mapping Regional Views' (1993) is one of many responses I've written to the broadcast and communications regulators on behalf of the Institute of Local Television that analyses and dismantles basic assumptions and research flaws: in this case particularly the too-easy substitution of 'regional' for 'local'.

Written a year later in 1994 'Defining the Social Geography of Local News Identity' was drafted as a 'virtual conference paper' for Videazimut and later presented in a panel discussion at an international local and community TV conference held in Cape Town. This paper sets out to explore how news relevance might be defined and distinguished and language refined to understand an appropriate scale of news service that would hold together sufficient viewers to warrant a 'local service'. The conclusion suggested is that the civic or local authority scale represents a sufficiently

'news rich' area for many to warrant a specific news provision, constructing a lexicon of news relevance based on familial and local ties. This theoretical perspective was consistent with the priorities found in research carried out regularly by the Institute of Local Television and others as part of consultations for publication as well as for local authorities.

Following a year later in 1995 'Vicarious and Experiential News' offers a wider ranging critique of the deficiencies of (particularly) TV news provision so far as identity and representation were concerned showing particular concern that academic input to policy discourse fell far short of offering a permanent critical review. This paper draws on the noisy channel and exhibited painting work from Coventry to provide metaphors to help up-pick facets of news delivery and the capacity of representations to substitute for – and become – substitute realities.

CONTRIBUTION: The analysis of regulator research remains on-going, an accumulative writing for history (if not always securing change). Both the more recent MORI (2005) and IPSOS-MORI (2008) studies for Ofcom have been treated to Institute of Local Television 'readings', the findings of the latter philosophical dialogue were included in a recent ULTV submission to Ofcom questioning the regulator's mishandling of research in its *Second PSB Review: Phase One* and the full reading is published as an Ofcom PSB Review Response (http://www.ofcom.org.uk/consult/condocs/psb2_1/responses/).

The Scottish Broadcasting Commission's Final Report, *Platform for Success*, offers a favourable pathway ahead for local TV on a proposed new Scottish digital PSB channel. Extensive written as well as oral evidence was presented to the Commission including two Chapters from earlier drafts of this Commentary.

3.54 The Commission heard evidence both on the technical feasibility and editorial desirability of community-based news and information services around Scotland. While there is further work to be done on the editorial and funding models for local television, it is certainly possible to envisage a number of new

services proving attractive to audiences at a city or regional level.

3.55 If proposals are to be developed and taken forward, it would seem natural that any such initiative should be linked to the Scottish Network proposal. The Commission is not making any recommendation in relation to local television services, but would encourage their advocates to develop their thinking in relation to a new sustaining national service which could certainly accommodate opportunities for more localised broadcasting.

OUTPUTS

Rushton, D **‘Reading the ITC’s ‘Mapping Regional Views’’** in Rushton, D (ed) *Citizen Television: a local dimension to Public Service Broadcasting*, published by John Libbey & Institute of Local Television (1993)

CONTENTS: An analysis of the IBA/ITC’s Mapping Regional Views that examines the viewers’ evidence of local and regional demands and makes comparison with representations of the regional scale and supply of television services in the light of decisions to auction the television franchises on the historic scale.

Rushton, D **‘Defining the Social Geography of Local News Identity’** in *Local Television Renewed: essays on local television 1994-2005*, published by School Press (2005)

CONTENTS: Developing a language of local television news relevance based on proximity and identity.

Rushton, D **‘Vicarious and Experiential News’** in *Local Television Renewed: essays on local television 1994-2005*, published by School Press (2005)

CONTENTS: Drawing on a ‘noisy channel’ metaphor to explore meanings in broadcast discourse and viewer understanding.

REFERENCES

- BBC (2003) *BBC Scotland Journalism Review 2003*, BBC: 13
- Boyd, A (1993) *Broadcast Journalism, Techniques of Radio & TV News*, Focal Press, Oxford: 1
- Broadcasting in the '90s: Competition, Choice and Quality*, HMSO, 1988
- Crawford (1974), *Report of the (Crawford) Committee on Broadcasting Coverage*, HMSO: 36
- Committee on the Future of Broadcasting (Report of the)*, HMSO, 1973: 121
- Foster, R, Egan, J and Simon J (2004) 'Measuring public service broadcasting' in Tambini, D and Cowling, S (eds) *From Public Service Broadcasting to Public Service Communication*, Institute for Public Policy Research: 20
- Hansard (1995) 7 December 1995, Column 594-595, HMSO
- Holden Pearmain and ORC International (2006) A report of consumer research conducted for Ofcom by Holden Pearmain and ORC International (HPO) for Ofcom's Digital Dividend Review*, Ofcom: paras 5.27, 8.16, 8.11
- IBA (1976) *Annual Report*, IBA: paras 4.6, 4.8
- IBA (1977) *Attitudes Towards Localised Television Services*, IBA
- ITA (1955) *The Plan for Scotland*, (Confidential), ITA paper/55/51: 2
- IBA/ITC (1990) *Mapping Regional Views*, ITC
- ITA (1956) *Scotland – Note by Director General*, (Confidential) ITA Paper 28 (56): 2
- Kerr, D S (1984a) *Local News: Central Scotland*, IBA: 3
- Kerr, D S (1984b) *Local News: East and West Midlands*, IBA: 4
- MORI (2005) study for Ofcom conducted by MORI, titled *Programmes in the Nations: A summary of the qualitative and quantitative audience research carried out for Phase 3 of the PSB Review*, and published on Ofcom's website in February 2005 http://www.ofcom.org.uk/consult/condocs/psb3/views_in_the_nations.pdf (last checked 24/10/07)
- Ofcom (2006) *Digital Dividend Review*, Ofcom: para A7.11
- Ofcom (2007) *New News, Future News*, Ofcom
- Peat, J (2006) BBC National Governor for Scotland, 2005/6 *Annual Review*, BBC: 13
- Rushton, D (1993) 'Reading the ITC's 'Mapping Regional Views'' in Rushton, D (ed)

Citizen Television: a local dimension to Public Service Broadcasting, published by John Libbey & Institute of Local Television: 166-132

Sancho, J (2002) *Pride of Place*, ITC: 29, 30

Svennevig, M (1989) *Deregulation of TV in the UK: the Public's View*, IBA: 5, 7, 9, 12, 13, 2

Wober, J.M and Kilpatrick E (1988) *The Costs of Choice – a calculus of programme want, variety and waste*, IBA: 9, 17-18

CHAPTER THREE: ACCOMMODATING LOCAL TV IN REGULATION, LEGISLATION AND ENGINEERING

Introduction

Taken together, local public service television requires:-

a consistent **regulation** to implement licensing and regulate standards of quality among local public service television providers;
the introduction of **legislation** to identify and licence an appropriate scale of service and to underwrite a common purpose in local provision, and;
engineering, which currently, and for the foreseeable future, involves digital terrestrial transmission to ensure universal coverage.

The analysis and exposition in Chapter Three focus on three examples of the author's involvement with regulation, legislation and engineering (spectrum and frequency planning). The examples in this Chapter are highlighted as follows:

<i>Date</i>	<i>Contribution</i>	<i>Platform</i>
1982-1993	Regulation	Cable TV
1988-1995	Regulation & Engineering	Channel 5 and City TV option
1995	Legislation	TexTV
1995-2003	Legislation, Regulation & Engineering	Restricted Services Licenses (RSLs)
2002-2003	Legislation & Engineering	2.4GHz microwave
2003-2007	Legislation Regulation & Engineering	Local digital TV – and for the 'add/drop' solution
2005-2007	Regulation	IPTV (Internet Protocol TV) & broadband

PART ONE: REGULATION: Cable

The 1984 Cable and Broadcasting Act required cable companies to source programming from independent suppliers, to provide access for citizen participation and to include, as well as support, voluntary associations to provide programmes for local distribution. Section 7 of the Act advised companies:-

- (d) to include programmes of an educational nature, programmes calculated to appeal specially to the taste and outlook of persons living in the area and programmes in which such persons are given an opportunity to participate;
- (e) to include programmes provided otherwise than by himself or by associates of his;
- (f) to include programmes provided by local voluntary associations and to assist such organisations in the preparation and production of programmes

Each applicant for a cable franchise was encouraged to take soundings among the local community and to place copies of their proposals for local services in the central library of the relevant borough or town (Friedli, 1993: 41). Jon Davey was recruited from the Home Office in 1983 to head-up the new regulator, the Cable Authority. Ten years later it emerged, after much intervening discussion and cajoling (Rushton, 1993:165, Rushton, 1994:35) that the Cable Authority had understood the Act to be a statute that imposed no requirements for mandated services but merely required whatever proposals were made to be taken into account in franchise decisions. The regulatory body looked at proposals largely from the standpoint of commercial realism, applauding an interest in and commitment to local television but more often questioning applicants about how they could justify their proposals rather than trying to squeeze more out of them. Sometimes, it has to be said, they awarded a franchise in the belief that the applicant had overestimated the kind of local services which they could realistically support, discounting any possibility of keeping to them (Davey, 1994: 4).

Without a 'must carry' rule in the 1984 Act, prospects for local services fell to locally negotiated options, offered and withdrawn at the operator's discretion. This weakness

in the Act was aggravated when the Government decided against implementing separation of cable content from cable carriage, as recommended in the Macdonald Report (1988) (Rushton, 1994: 41). Published in late 1988, as *The Infrastructure for Tomorrow*, the report was produced by the Communications Steering Group of the Department of Trade and Industry. Macdonald made recommendations for cable, which were reflected in the White Paper of 1988 *Broadcasting in the '90s: Competition, Choice and Quality*. Macdonald had not been persuaded by evidence from Europe, Japan or the USA that a national policy was needed to achieve the Government's ambition of fibre connecting to every home, arguing that a national plan would involve an unacceptable level of public financing and

the Steering Group believed that by encouraging rather than thwarting ... [the] convergence [between broadcasting and telecommunications] and by putting emphasis on improving the options available to the end-user, rather than, as happened too often in the past, putting emphasis on the technology for its own sake, Government would create a wide range of challenging business opportunities. These would in turn stimulate far-reaching changes in the UK's communications infrastructure (Macdonald, 1988).

The Macdonald Report envisaged that given the right services the subscriber and viewer would 'pull' this new high-bandwidth fibre out across the country. The Report supported 'local delivery' by involving wireless technologies as well as cable, seeking to introduce a technology neutral regulation into the later legislation. The 1988 White Paper, *Broadcasting in the '90s* sought to open competition among alternative suppliers as local delivery of channels for borough and town. The White Paper also distinguished ownership of supply of one-way services (including TV) from provision of their content or programmes. In this emphasis were favourable echoes of the 1984 Cable and Broadcasting Act's requirement, that the cable operator plan for the inclusion of 'programmes provided otherwise than by himself or by associates of his'. In spite of the recommendations to avoid commercial monopolies in new communications, compromises were made before the White Paper was translated into the legislation of the 1990 Broadcasting Act. The potential cable companies, mostly

from the US, were keen to use the less efficient copper cabling rather than the higher capacity optic fibre (pioneered by BT). Keen to exploit their sole investor advantage, and minimise or even exclude competition from alternative local suppliers, the US cable companies submitted their concerns on the Broadcasting Bill to the Home Office, warning that as the primary source of investment, they would pull out if programme supply was separated from delivery. A microwave video distribution system (MVDS) had been proposed to offer an alternative local delivery platform, but the frequency finally chosen was considered impractical for local systems.

Significantly, the 1990 Broadcasting Act sought to extend the light-touch supervision of cable to terrestrial television regulation, reorienting oversight away from viewer and subscriber demands to represent the wider public as consumers and individual citizens as victims to be rescued as last resort from market failure.

Cable had been granted the rights of way of the public utilities in the 1980s, to avoid possible interference by local authorities that held highways responsibilities for the streets and public spaces in their areas. By removing local authority statutory influence cable had no diplomatic need of local services, although most of the franchise applicants had included plans for local and community channels in their franchise applications (Friedli, 1993: 41). As Tony Currie of the Cable Authority suggested, “it was rather expected that the *raison d’etre* of cable was going to be to provide local programmes as an alternative to the existing channels” (Rushton, 1994: 40).

Between 1984 and 1997 there were only a handful of local channels running at the cable company’s discretion. Over a ten-year period the majority of these had withdrawn and by 1992 in Scotland, Wales and Northern Ireland (and throughout most of Northern England) there were no local channels at all (White, 1993: 141-161). In 1997, after retiring as Head of Cable and Satellite at the Independent Television Commission, Jon Davey remarked, “concentration on improving margins seems to have been at the expense of customer service. I am still looking forward to the day when I can hold my head up among those who continue to regard me as somehow

responsible” (Davey, 1997). Cable’s slow rate of build, together with the heavy churn of dissatisfied customers, left towns and cities far below the levels of cable take-up experienced throughout much of northern Europe. There, local public-private partnerships enabled cable operators to build using existing trunking and berths, with local support bringing investment in local and community channels. Local planning combined with less locally antagonistic central regulation, helped maintain monthly cable subscriptions at roughly a quarter the level of those in the UK. Under a technically coherent and politically less divisive plan, cable in northern Europe quickly became the de facto delivery platform for multi-channel television, achieving take-up of 80-90%, while in the UK the figure remained closer to 20-25%, (Rushton, 1993: 203).

PART TWO: LEGISLATION: the Restricted Services Licence

Several amendments to the 1995 Broadcasting Act were put forward on behalf of local public service television. These were prepared by the author and proposed by Lord Dubs, Baroness Dean and Lord Thomson of Monifieth – the former Chair of the Independent Broadcasting Authority.

Among the amendments made in the Lords were practical provisions for urban and rural forms of local TV in:

- (a) an area of the United Kingdom in which the population is not greater than 800,000 adult residents which includes one centre of population with more than 350,000 adult residents, or
- (b) an area of the United Kingdom in which the population is not greater than 500,000 adult residents which includes no individual centres of population with greater than 150,000 adult residents. (Hansard, 1996b)

The Government opposed these amendments, with Lord Inglewood prompted to reply, the amendment that we shall bring forward will enable such services to develop. I hope, in the light of my assurances that the Government agree with the principles behind the noble Baroness’s amendment and that we will bring

forward a considered amendment, that she will agree to withdraw the amendment before us today. (Hansard, 1996)

Throughout the debate on the 1995 Broadcasting Bill, support for a workable local TV provision was evident in both Houses of Parliament, with Graham Allen MP suggesting that, “local television, by connecting citizens to one another, could regenerate a sense of community and shared identity” (Hansard, 1995). A few months later, as legislation drew closer, Lord Thomson of Monifieth questioned local TV’s absence from broadcasting legislation,

it has always seemed rather a paradox that ...there has never been the encouragement to move on from regional television to genuinely local television – city television and voluntary local channels of one kind or another.

It was generally felt that the advent of cable was a great opportunity for that to develop. The Cable and Broadcasting Act 1984 did not make any of this mandatory, partly in the belief that those who took on cable would want in their own interests to explore this development. Section 7 of the Act deals with community obligation but not in a mandatory way.

What has happened in practice? By 1990 there were 135 cable proposals. All of them made fine promises about local services, especially the kind of community services to which the noble Baroness [Dean] referred. What is the reality now? We are going backwards. In 1989 there were five distinct local channels on 11 franchises - very nearly half. By 1995 there were 11 out of 88 - a fall from a half to one-eighth. It has been very disappointing.

When Channel 5 was originally conceived some imaginary proposals were put forward for city television. Perhaps digital multiplexes will offer new opportunities. In the meantime, as the noble Baroness has said, this is a probing amendment to try to introduce fair and equal access for small-scale broadcasters. (Hansard, 1996a).

The Opposition Lords local TV amendments were withdrawn, in favour of the Conservative Government's proposals to introduce an agreeable amendment of its own – the restricted service licence or 'RSL'. When it arrived, the Government explained its alternative was intended to serve 'special events or university campuses' and to restrict local TV's "'defined locations' to (eg) the racetrack at Silverstone" (Hansard, 1996). The Government's intention was clearly not, as they had suggested it would be, in tune with the 'principles behind' Baroness Dean's proposals made in the Lords. The ITC's subsequent involvement in constructing the terms of the RSL licences was also unhelpful, offering spectrum with poor reach or spectrum that fell outside the prevailing aerial group (so that reception would be difficult without a new aerial). The best interpretation that might be made of the ITC's involvement was they were unenthusiastic to engineer a workable local TV plan and, by limiting access to often poorly configured spectrum, this indifferent regulation contributed considerably to the failure of many of the RSL applicants (see Annex Four). As a result of the state's constructive disinterest those committed to local TV began to develop their own engineering models with proposals based on independent advice and technical assessment (see Chapter Two, Outputs).

PART THREE: ENGINEERING: the 'add/drop' solution

The 'add/drop' or 'cherry-picker' offers a solution for the delivery of local TV on the digital multiplexes. The concept was explained by Frank Brown of NTL (now Arqiva) to delegates attending the Scottish Local TV Forum in March 2005 (Brown, 2005). The first advantage noted was that a local service might intercept an existing (poorly watched) digital service at the nearest local transmitter site and exchange this national signal for a local channel for onward distribution and reception, removing the need to introduce additional transmission equipment for local TV on overcrowded towers. Since the channel to be replaced is en route to the home via the UK's network of transmitters and relays, the substitute channel would reach every household in the transmission area as part of the national multiplex (or mux) into which the new channel is integrated. Alternatively, new 'local network channels' could be introduced, alongside the national TV channels, for the specific purpose of being

replaced locally for part or all of the day by channels inserted at each local transmitter. The author's contribution has been to develop this add/drop proposal (Ofcom, 2007) and to negotiate possible delivery within the national multiplexes, drafting plans for the introduction of local public service television using the add/drop technique – and published as the Local Channel Atlases. Ofcom accepts that add/drop “offers the most consistent and convenient solution, and potentially offers the widest reach for local TV” (Ofcom, 2006:39). Add/drop is being introduced in Europe by Terayon (now Motorola) to enable digital service localisation (Francois, 2006). In the coming roll out of digital switchover in the UK the most efficient point at which to introduce local television channels via add/drop is when switchover arrives in each area, at that moment when spectrum bandwidth is ‘gained’ in the PSB muxes as a benefit of moving to a higher signal compression (from 16QAM to 64QAM).

FURTHER READING – OUTPUTS 1983-2008

INTRODUCTION

The Outputs for this final Chapter address the three areas where work on local TV has been focused: regulation, legislation and engineering. This Chapter is intended to provide the primary focus to explore the ‘Outputs’ as a means of unifying the three main areas of activity – regulation, legislation and engineering.

GENERAL CONTRIBUTION: I suggest the significant general contribution here is developing and maintaining a unified on-going study of communications across (broadcasting) regulation, legislation and engineering involving an interdependent analyses that engages with key-players across these three areas over a period of twenty years. By means of this methodology I’ve been able to demonstrate likely outcomes and introduce ways to move forward the local public service television agenda within changing regulatory, legislative and engineering priorities and scenarios.

For **REGULATION** I’ve chosen two papers looking at cable and Channel 5. For the first time legislation in the 1993 Broadcasting Act encouraged local community and

citizen access to cable TV while the 1988 White Paper, *Broadcasting in the '90s* encouraged a possible city TV service on the 'fifth' or 'sixth' spectrum that had been identified.

The failure to implement either 'local' approach lies in this instance not with legislation so much as with regulation, itself a transition from regulation that presumed public service to a form of regulation favouring commercial objectives.

The relevance of intervention into regulatory discourse is that primarily to record, plot and monitor the missing component or overlooked demand in a conflictual dialogue with the regulators, exploring the means to make absent in observing the twists and turns of the burial of local accountability and representation in broadcasting.

Throughout the 1990s this dialogue was conducted most usually in letters faxed to the ITC, the Home Office and Department of National Culture and less often in consultations that were then far less frequent than they are today.

SPECIFIC CONTRIBUTION: Maintaining an interventionist dialogue through counter-example, argument and analyses of regulatory texts: to explore deficiencies and conceits, to differentiate legislative ambition from regulatory implementation and to build an on-going critical framework through which to consider a parallel set of objectives informing (by 1995) broadcast devolution and subsidiarity. Developing and sustaining the concept of 'local public service television' for its recognition as the third tier of television PSB.

For *LEGISLATION* I've included two papers on devolved regulation (or legislation). The first was written for the John Wheatley Centre in Edinburgh to encourage debate on devolved broadcasting within a political circle that anticipated a wider devolution of powers from Westminster to Edinburgh than actually occurred.

The second paper revisits this same theme but for an academic readership.

In these papers the emphasis is upon engaging with policy issues and to bring together political and academic sectors. The latter has not been successful. However, these two papers form the basis of a recent reworking following a request from the Calman Commission on Scottish Devolution (June 2008) to make a submission (September 2008) on broadcasting and devolution.

The third paper here offers a 'trace' of the debate around the amendments I drafted for the Liberal Democrat and Labour Lords during the passage of the 1995 Broadcasting Bill. In the round-about cut and thrust way of political compromise these amendments that arose out of the earlier TV 'trials' and TexTV (described at the end of the Methodology Chapter) eventually prompted or browbeat the then Conservative Government to introduce the local TV Restricted Services Licenses in the 1995 Broadcasting Bill.

SPECIFIC CONTRIBUTION: The introduction of the RSL analogue TV licenses in the 1996 Broadcasting Act and, more recently, evidence submitted (12 September) at the request of the Calman Commission on Scottish Devolution. A copy of which can be found on the Commission's website:

<http://www.commissiononscottishdevolution.org.uk/engage/submissions-received.php>

Finally, for *ENGINEERING* I've included a chapter as a 'users guide' to frequency planning for analogue local TV as offered under the terms of the Restricted Services Licenses (RSLs) and a later paper in the form of an 'Atlas' undertaken to apply the channel-switching technique of add/drop to the introduction of local TV on the digital PSB multiplexes.

These 'engineering papers' demonstrate a need to translate the 'dark arts' of engineering into a form that can be understood by those whose simpler request is to deliver or to receive local TV at an appropriate scale.

The add/drop solution remains the most elegant way of introducing local TV into the stream of digital terrestrial channels and this technique continues to be the priority of ULTV in association with government recognition of local public service television as 'public service broadcasting' (PSB). That recognition is important to secure access to the digital streams on the PSB muxes that are necessary to ensure local TV can reach all households across the UK as well as all households within each designated local area.

SPECIFIC CONTRIBUTION: Although Ofcom has not approved or supported add/drop its universal capability and advocacy for this requirement as local public service television has prompted Ofcom towards offering interleaved spectrum suitable for local TV at all UK main transmitter sites (now at all 81 sites). In conjunction with an extensive on the ground organisation of local authority and community input in Scotland, recently represented through the Scottish Local TV Federation established by the Institute of Local Television, Ofcom has recently offered (June 2008) digital mux capacity in Scotland that is able to reach up to 98.5% of Scottish homes.

REGULATION

Rushton, D 'Cable, Cable TV and Video' and 'Origins of UK cable' in *Local Television Reviewed: essays on local television 1982-1993*, published by John Libbey & Institute of Local Television (1994)

CONTENTS: An early analysis from 1983/4 and projection of cable impact and study of UK cable up to 1992.

Rushton, D 'Channel 5 under Local Control' in Malina, A, *Local Channels under Local Control : a debate on broadcasting policy for Scotland and the English Regions*, published by Institute of Local Television (1995)

CONTENTS: One of several papers examining the shift in emphasis from 1988 and the prospect of local services on channels 5 and/or 6 to city proposals and regulatory emphasis favouring a fifth national channel.

LEGISLATION

Rushton, D *Does Scotland need a Broadcasting Policy?*, John Wheatley Centre, Edinburgh, 1995.

CONTENTS: Paper written for the Edinburgh John Wheatley Centre on broadcasting following devolution.

Rushton, D **‘Subsidiarity in TV Broadcasting: The Case for Local TV Regulation of Services in the New Broadcasting Bill’**, in Lodge, S (ed) *Scottish*

Communications Journal, Alliances and Alignments: Communications in the New Europe, Number 2, CRU, Napier University, Spring 1996,

CONTENTS: Following up paper on broadcasting after devolution, expands on how subsidiarity might be applied in frequency planning and in local service accountability.

Rushton, D **‘Policy and intervention’** in *Creating Local Television: local and community television under the Restricted Services Licence*, published by John Libbey, Institute of Local Television & CMA (1997)

CONTENTS: An account of the background, interventions and drafting of amendments to the 1995 Broadcasting Bill on behalf of local and community TV.

ENGINEERING

Rushton, D **‘Locating frequency channels for TV RSLs’** in *Creating Local Television: local and community television under the Restricted Services Licence*, published by John Libbey, Institute of Local Television & CMA (1997)

CONTENTS: A user-friendly guide to frequency planning in light of frequencies being offered by the ITC for local TV under the restricted services licences.

Rushton, D *The Pocket Local Channel Atlas (Scotland)*, Institute of Local Television (2005)

CONTENTS: The terrestrial local TV option proposed by ACTO is described in Ofcom’s Digital Local as “the most consistent and convenient solution and potentially

offers the widest reach for Local TV of all the terrestrial options.” Add/drop explained and applied to delivering local TV throughout Scotland. Other volumes explore the application of add/drop in England, Wales and Northern Ireland.

REFERENCES

- Brown, F (2005) ACTO 20, <http://www.maccess.org.uk/members/ilt.html> (last checked 24/10/07)
- Davey, J (1994) ‘Introduction’ in Wilson, R (1994) *Local Television: Finding a Voice*, Dragonflair: 4
- Davey, J (1997) *New Media Markets* Vol 15 No 40 6 November 1997
- Francois, S (2006) ACTO 20, <http://www.maccess.org.uk/members/ilt.html> (last checked 24/10/07) and www.csa.fr/actualite/communiqués_detail.php?id=123955
- Friedli, A (1993) ‘Cable Company Franchise Commitments’ in Rushton, D (ed) *Citizen Television: a local dimension to public service broadcasting*, John Libbey & Institute of Local Television: 41
- Hansard (1995) 7 December 1995, Column 594-595, HMSO
- Hansard (1996a) 15 February 1996, Column 756, HMSO
- Hansard (1996b) 15 February 1996, Broadcasting Bill Amendment 192, HMSO
- Hansard (1996) 7 March 1996, Column 460-462, HMSO
- Macdonald (report) (1988) *The Infrastructure for Tomorrow*, DTI
- Broadcasting in the ‘90s: Competition, Choice and Quality*, (1988), HMSO
- Ofcom, (2006), *Digital Local: Options for the future of local video and interactive content*, 2006
- Ofcom (2007), *Technical Options*, 2007
- www.ofcom.org.uk/radiocomms/ddr/documents/tech_tv/tech.pdf
- Rushton, D (1993) ‘A Local Future on Cable’, in Rushton, D (ed) *Citizen Television: a local dimension to public service broadcasting*, John Libbey & Institute of Local Television: 165-171, 203
- Rushton, D (1994) *Local television Reviewed, essays on local television 1982-1993*, John Libbey & Institute of Local Television: 35, 41, 40
- White, J (1993) ‘Survey of Local Channels on UK Cable, 1992, in Rushton, D (ed)

Citizen Television: a local dimension to public service broadcasting, John Libbey &
Institute of Local Television: 141-161

ANNEXES

Annex One

Assessment of the social geography of spectrum access following auctions and trade

The transmitter sites listed on the left are followed in the third column by an estimate of the projected coverage of the commercial multiplexes from the single transmitters serving the area. The middle column is an estimate of the viewers able to receive services from both main transmitters and relays. For our purposes here, the transmitter sites highlighted in grey are those with households of less than 100,000. The map that follows on page 65 shows the location of the transmitters, those with a dark outer line reaching less than 100,000 households. The author suggests that these areas are less likely to be served should spectrum's economic efficiency prevail over technical efficiency, or public access.

Aberdare	24,390	23,504
Angus	408,262	304,762
Beacon Hill	127,002	103,901
Belmont	2,297,696	1,467,268
Bilsdale	1,706,959	1,328,094
Black Hill	1,345,239	1,289,211
Blaenplwyf	12,599	9,089
Bluebell Hill	615,628	455,890
Bressay	4,865	4,642
Brierley Hill	128,194	107,355
Bristol Ilchester Crescent	56,812	55,285
Bristol Kings Weston	97,376	75,379
Bromsgrove	350,710	272,516
Brougher Mountain	46,915	25,583
Caldbeck	144,814	117,479
Caradon Hill	254,414	211,275
Carmel	154,386	97,331

Chatton	314,666	167,674
Chesterfield	61,067	54,850
Craigkelly	645,279	526,970
Crystal Palace	5,173,386	4,409,762
Darvel	511,077	202,980
Divis	515,701	418,621
Dover	360,521	251,876
Durris	297,177	233,041
Eitshal	10,669	10,317
Emley Moor	2,397,764	2,004,372
Fenham	410,434	291,091
Fenton	161,615	137,399
Guildford	158,840	94,806
Hannington	655,137	537,420
Hastings	28,539	27,495
Heathfield	184,081	171,974
Hemel Hempstead	201,181	162,252
Huntshaw Cross	66,693	51,320
Idle	169,648	110,000
Keelylang Hill	14,060	12,624
Keighley	94,060	70,967
Kilvey Hill	168,200	144,305
Knockmore	56,046	42,384
Lancaster	148,877	108,061
Lark Stoke	443,681	345,426
Limavady	74,475	68,599
Llanddona	84,740	46,338
Malvern	105,072	84,299
Mendip	1,323,340	1,206,979
Midhurst	143,370	131,844
Moel Y Parc	749,258	550,030

Nottingham	232,266	154,594
Olivers Mount	39,286	31,689
Oxford	592,274	461,410
Pendle Forest	119,822	108,169
Plympton	77,049	71,255
Pontop Pike	1,023,512	1,003,300
Pontypool	108,354	16,756
Presely	129,257	45,260
Redruth	152,443	101,003
Reigate	284,575	124,506
Ridge Hill	416,606	359,785
Rosemarkie	69,370	65,637
Rosneath VP	236,558	146,721
Rowridge HP	944,883	430,970
Rowridge VP	1,095,654	803,135
Rumster Forest	67,253	39,880
Saddleworth	88,278	50,953
Salisbury	33,915	29,626
Sandy Heath	1,614,023	1,119,641
Selkirk	36,446	31,195
Sheffield	335,145	236,691
Stockland Hill	376,245	218,536
Storeton	217,955	98,572
Sudbury	761,734	602,047
Sutton Coldfield	3,043,254	2,702,917
Tacolneston	414,774	357,525
The Wrekin	1,062,126	726,861
Torosay	7,961	7,210
Tunbridge Wells	149,430	142,622
Waltham	1,589,169	1,008,446
Wenvoe	822,318	589,848

Whitehawk Hill	135,416	133,047
Winter Hill	3,065,139	2,886,959

Derived from figures supplied by Ofcom, January 2007.

Annex Two

The PSB Purposes and Characteristics, introduced during Ofcom's 2004 PSB Review.

PSB Purposes

Informing our understanding of the world - To inform ourselves and others and to increase our understanding of the world through news, information and analysis of current events and ideas

Stimulating knowledge and learning -To stimulate our interest in and knowledge of arts, science, history and other topics through content that is accessible and can encourage informal learning

Reflecting UK cultural identity - To reflect and strengthen our cultural identity through original programming at UK, national and regional level, on occasion bringing audiences together for shared experiences

Representing diversity and alternative viewpoints - To make us aware of different cultures and alternative viewpoints, through programmes that reflect the lives of other people and other communities, both within the UK and elsewhere

PSB Characteristics

High quality - well-funded and well-produced

Original – new UK content rather than repeats or acquisitions

Innovative – breaking new ideas or re-inventing exciting approaches, rather than copying old ones

Challenging – making viewers think

Engaging – remaining accessible and attractive to viewers

Widely available – if content is publicly funded, a large majority of citizens need to be given the chance to watch it.

(Source: Ofcom PSB Review Phase 3: Competition for Quality)

Annex Three

In 2006 The Broadcasting Trust’s Campaign for Local TV found viewers wanting spectrum used for the mostly unwatched channels to be used instead for local channels (Comment, 2006). BARB’s regular survey of viewing figures provides an estimate of channel audiences. On each multiplex the poorly watched channels occupy the same spectrum as those more widely watched.

	Viewing Share		Reach	
	Hrs/mins	Shr%	Dly%	Wkly%
Price Drop TV	0.01	0.1	0.7	2.8
Bid TV	0.01	0.1	0.6	2.5
Sky Travel	0.01	*	0.2	1.2

While by comparison the following channels use spectrum *relatively efficiently*,

BBC 1	5.17	20.8	48.9	83.4
ITV	4.35	18	41.6	65.8
C4/S4C	1.55	7.5	28.1	68.9

BARB, *New Media Markets*, 23 March 2007

(Nb These figures are inflated by including viewing by satellite and cable as well as Freeview.)

Speaking in the House of Common’s debate on Community Radio and Television, Peter Holmes for the Liberal Democrats said:-

There has been a proliferation of TV channels, and of quiz and shopping channels, all of which are of low quality. There have been two or three recent scandals about quiz programmes, which have been a rip-off involving conning

consumers who telephone into thinking that they can win prizes when the results have been decided in advance. The Government must look again at how some of the spectrum could be more usefully allocated to community TV.

(Hansard, 2007)

Annex Four

RSL (restricted services licence) applications, competition and locations

September 1997 TV RSL Applicants (31)

Location	Station Name	Company/ Organisation	Provisional/Award Accept/Reject	Date
Southern England				
Isle of Wight	TV-12	TV- 12 Ltd	✓	
London (Greater)	Panjabi TV	Panjabi Centre Ltd	✓	
London (West)	Sunrise TV	Sunrise Radio Ltd	x	
Bristol	City TV Bristol	City TV Ltd	✓	
Oxford	Oxford Channel	Oxford B'casting Ltd	✓	
Wales				
Cardiff	City TV	Cardiff City TV Ltd	x	
Eastern England				
Cambridge	Cambridge TV	Dawe Media Ltd	x	
Midlands				
Birmingham	City TV B'ham	City TV Ltd	x	
Coventry	City TV Coventry	City TV Ltd	x	
Leicester	City TV Leicester	City TV Ltd	x (competing)	
	L'ster D-vision	Diamond N/nal N/ks	x (competing)	
	Mid'd Asian TV	MATV Ltd	✓	
North				
Leeds	City TV Leeds	City TV Ltd		
North West				
Liverpool	City TV Liverpool	City TV Ltd	x	

Manchester	Asian TV	Asian TV Ltd	x (competing)
	M'ter Student TV	M'ter Student TV	√
	Manchester TV	M'ter TV Co Ltd	x (competing)

North East

Newcastle & Gateshead	City TV Tyneside	City TV Ltd	x
--------------------------	------------------	-------------	---

Northern Ireland

Londonderry	TVC9	Derry Media Access	√
-------------	------	--------------------	---

Scotland

Glasgow	Channel 6 G'w	Channel 6 Ltd	√ (competing)
	Glasgow Live	Mirror Group TV Ltd	x
Motherwell	Lanarkshire TV	Lanarkshire TV Ltd	√
Ham'ton			
E K'bride			
Stirling	Channel 6 S'g	Channel 6 Ltd	6/98
Edinburgh	Channel 6 E'h	Channel 6 Ltd	6/98
Dundee	Channel 6 D'e	Channel 6 Ltd	7/98
Perth	Channel 6 Perth	Channel 6 Ltd	6/98
Aberdeen	Channel 6 A'n	Channel 6 Ltd	6/98
Inverness	Channel 6 I's	Channel 6 Ltd	(competing)
	Celt TV	Caledonia TV	(competing)

April 1998 TV RSL Applicants (39)

Location	Company/Organisation	Competition
South West England		
Exeter	City Television Ltd	
Taunton	City Television Ltd	
Southern England		
Cowes/	TV-12 Ltd	(competing)
Southampton		
Southampton	Solent City Television Ltd	(competing)
Swindon	TV-12 Ltd	
Winchester	TV-12 Ltd	
Chichester		

Bognor	TV- 12 Ltd
Salisbury	TV- 12 Ltd
Portsmouth	Solent City Television Ltd
Southsea	
Bournemouth	Solent City Television Ltd
Windsor, Slough	
Maidenhead	Thames Valley Broadcasting Ltd
Reading	Thames Valley Television
City of London	City Television Ltd
Banbury	Oxford B'casLing Ltd
Hertford & Ware	Picture Applications Ltd

Wales

Cardiff	Capital TV Ltd
Swansea	Coast to Coast TV Ltd

Eastern England

Grimsby		
Cleethorpes	Diamond Cable Comms	(competing)
	Lincolnshire Television Ltd	(competing)
East Lindsey (Lincs)	Lincolnshire Television Ltd	
Lincoln	Lincolnshire Television Ltd	
Hull	Lincolnshire Television Ltd	

Midlands

Birmingham	Vision Asia	(competing)
	James Driscoll Associates	(competing)
Dudley/Black Country	James Driscoll Associates	
Trowbridge, Melksham &		
Bradford on Avon	City Television Ltd	
Cheltenham &		
Gloucester	City Television Ltd	
Bath	City Television Ltd	

North

Bradford	Cactus Television
Barnsley	Barnsley Television Company Ltd

North East

Newcastle	James Driscoll Associates	
Stockton,		
Middlesborough &		
Teesside	Teesside Television	
Redcar	(North Eastern Evening Gazette Ltd)	

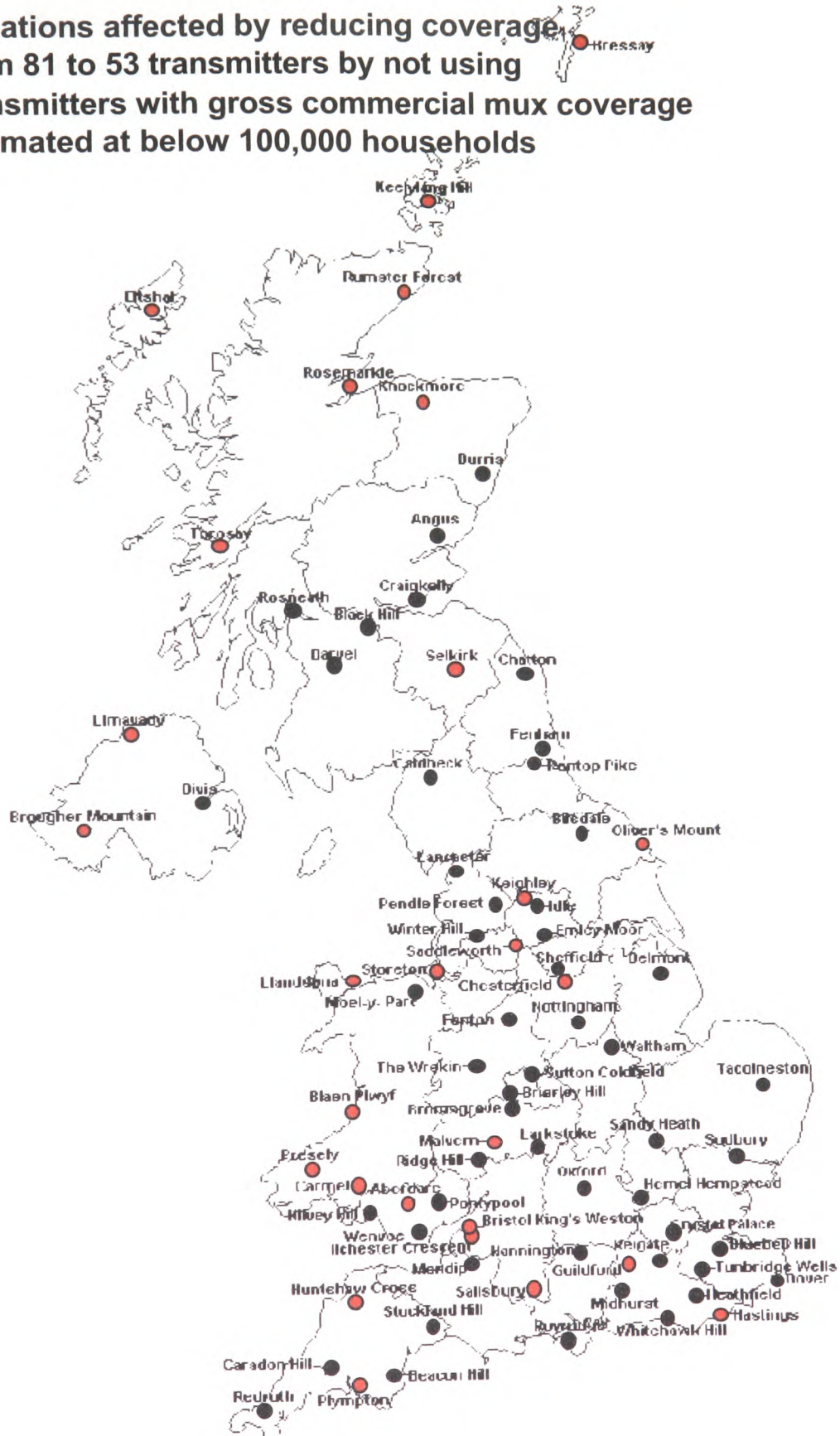
Northern Ireland

Limavady, Coleraine,		
Portstewart	Derry Media Access	
Portrush, Dungiven,		
Strabane	Derry Media Access	
Belfast	Northern Visions	(competing)
	B'ast Telegraph N'papers Ltd	(competing)

Scotland

Dumbarton	Channel 6 Ltd	
Ayr	On Ayr TV Ltd	

Locations affected by reducing coverage from 81 to 53 transmitters by not using transmitters with gross commercial mux coverage estimated at below 100,000 households



Annex Five

Select Committee House of Lords BBC Charter Review, Minutes of Evidence, 11 January 2006 Examination of Witnesses, Question 1725

Q1740 Lord Peston: I am right that you said in reply to Lord Armstrong that the spectrum in some general sense is within the Government's domain. which might also then be interpreted as belonging to the citizens of this country. The Government then would use it for optimum public purposes. Would that be a fair way of putting it? That is what we mean by things being in the public domain.

Professor Cave: I hesitate to describe it legally in those terms. In effect, it is at the Government's disposal.

Q1741 Lord Peston: That is right. Normally, what is at the Government's disposal, subject to some distinction, is meant to be allocated for the benefit of the people of this country. That is normal. I used to teach the subject and it is certainly what I used to say.

Professor Cave: It would certainly be a very respectable objective.

Q1742 Lord Peston: Therefore, to take an obvious example, if one of the objectives of the general views of what the people of this country wanted would be virtually universal coverage of television, then that would be a perfectly acceptable thing that they would want and they may like spectrum to be allocated to achieve that. I would be right on that, would I not, if that is what they want and if that is what is regarded as in the public interest?

Professor Cave: The public interest would be in the capacity of the population to receive broadcast programmes, which may or may not be spectrum based.

Q1743 Lord Peston: But if it were to be spectrum based, that would be one way of doing it. The notion of universal coverage does not imply the notion of universal watching. In other words, if I look at my Radio Times, I want access to everything in the Radio Times, but that does not mean I am going to watch everything. I certainly do not regard the system where most of us do not watch as inefficient, and that is why I regard your use of the word efficient as quite erroneous. In other words, it is nothing to do with the idea that if only a few people listen to Radio 3, that is not allocating the resources properly. Surely that is a complete mistake as far as economics is concerned.

Annex Six

In August 2007 the Scottish Broadcasting Commission was appointed by Scotland's First Minister, Alex Salmond MSP, to explore broadcasting in Scotland in terms of economic, cultural and political benefits. Three Chapters from this Commentary and an Index of the ACTO directories were submitted to the Commission to provide evidence of local public service television interests in Scotland. The Commission submitted its report *Platform for Success* to the Scottish Government in September 2008. For more details of the Commission and its work go to:
www.scottishbroadcastingcommission.gov.uk/

Annex Seven

The Scottish Liberal Democrat and Green Party Manifestos for the May 2007 Elections to the Scottish Parliament express concern with the present spectrum and regulatory arrangements.

Scottish Liberal Democrat Manifesto 2007 P82

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

dividend' and we will work with stakeholders to realise the potential of community media to bring communities together and share information.

Scottish Green Party Manifesto 2007 P12-13

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

And, from the Welsh Liberal Democrat Manifesto 2007 P52

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

Annex Eight

The *Digital Dividend Review* (Ofcom, 2006) was discussed by the Scottish Parliament Cross Party Group on Culture and Media on 25 October 2006, prompting the Chair of the Group to write to Ofcom:-

While recognising the reserved powers applying to broadcasting, the outcome of this review of future spectrum use will have a direct impact on many devolved issues, including culture and enterprise. Scotland and its regions have distinctive cultures that are inadequately served through UK-wide media. This is of course not surprising, but it does need to be addressed. The current situation for Scottish output has some positive aspects, but there is certainly scope for improvement at a Scottish level, and the addition of local output would provide a very significant boost to our cultural opportunities. There would of course also be many potential economic benefits arising from more devolved broadcasting.

At the CPG meeting, we noted that on 19th September Alex Neil MSP, who is the Convener of the Enterprise and Culture committee, wrote to Lord Currie Chairman of Ofcom, to request that "no decisions are made on the use of

broadcast spectrum that exclude the introduction of local TV channels with DTT roll out to reach all households in Scotland. Furthermore, spectrum should not be allocated or regulated so as to restrict or inhibit the introduction in future of new independent public channels from and for Scotland.” There was general agreement with this sentiment, and it was agreed to write to you stressing the importance of retaining flexibility in the allocation of spectrum to allow a variety of local television companies to be set up to serve the cultural needs of our communities.

I understand that similar concerns have been expressed in Wales, and that additionally attention has been drawn to the role of television within the democratic processes of the devolved nations and regions. Clearly this is a matter that is also of great concern to us. The health of our democracy is in no small way dependent upon the health of the Scottish media, and we want to maximise any opportunity presented by new technology to enhance the democratic process.

In addition to requesting that technical measures be undertaken to ensure the flexibility of use of the system, the CPG was concerned about the issue of ownership of the digital spectrum. If the objective is to maximise income from the sale of the spectrum, if it is sold to the highest bidder and in perpetuity has its use determined by successive owners, then this clearly creates difficulties for the growth of local and community based alternatives which, especially in their early stages, are likely to be weaker commercial players than the big networks. We believe that a significant part of the spectrum should therefore be reserved to allow for the growth of local stations.

Cathy Peattie MSP (Convener CPG Cross Party Culture and Media Group)

For a view from Wales see, Andrews, L ‘The National Assembly for Wales and broadcasting policy, 1999–2003’ *Media, Culture & Society*, Vol. 28(2): 191–210, SAGE (2006)

Annex Nine

Ofcom's public presentation of the decision to allow the commercial multiplexes to broadcast on fewer than the 1152 transmitters and relays used by the public service multiplexes has recently misrepresented this decision as a commercial choice by the operator. Moreover, the interview with Vicki Nash, Ofcom Scotland Director, copied below, suggests that this decision to use only 81 transmitters is reversible, with no barrier put in the way of the commercial operators to expand later. Yet, spectrum is to be auctioned and the markets described as a measure to avoid temptations to hoard in case of possible but unfulfilled uses. To enable later expansion, spectrum must be retained – at 1071 transmitter sites. Furthermore the impression given in this interview is that should viewers want commercial services then the operators could respond to their demands. This is not only technically impossible but a misrepresentation of the role actually played in distribution in constructing communication markets to favour of accessible rather than remote (even if demanding) viewers.

DIGITAL DECISIONS, 'Reporting Scotland', *BBC Scotland*, 7/01/07

STUDIO PRESENTER: Over the past few weeks many of us will have bought, or been given, the set top boxes we need to get digital TV through a normal aerial. But that's not an option for many people in rural Scotland where Freeview is still not available. They've been waiting patient for years and now its becoming clear many of them will never get the full service. Our business correspondent, Jamie McIver's been finding out why.

McIVER: It's been a busy festive period for Calum McKay at his TV shop in Dumfries. Within the next two years everyone in the south of the country will need to get digital as they are among the first in Britain to have their traditional analogue signal switched off.

SALESMAN (Dumfries shop): Customers are getting quite switched on about digital, they are still wary but they are getting better, they are coming in and

they're asking advice, taking advice, and most people know now they they will have to do something.

One thing is becoming clear is if you want free digital TV through a normal aerial it will be a two tier service. A kind of post-code lottery. For example, if you live in Selkirk you can already get around 40 Freeview TV channels including things like Sky News, UK TV History and music channels. But a few miles away, say in parts of Galashiels, when you get the Freeview next year you'll get far less, only around 20 channels all from the public service broadcasters. The main reason is it doesn't make commercial sense for the other channels to convert hundreds of small transmitters. It's a lot of money for few viewers. The regulators faced some criticism for allowing this but it's stressing it isn't stopping these channels either.

VICKI NASH, Ofcom Director, Scotland (Ofcom's Glasgow office):

Essentially it's a commercial decision and they are going to be broadcasting initially from their 81 transmitter sites but what Ofcom has said as the regulator is that we wouldn't put any barriers to them increasing their level of coverage if that is what they want to do.

McIVER: Trailers like this aim to tempt the people who still haven't got digital. Within four years everyone in Scotland will be able to get the Freeview service, but it seems inevitable that about one in four of us won't get all the channels it offers.

Annex Ten

Letter (6 December 2007) compiled (largely by Dan Cass, SIX TV and Jaqui Devereux, Community Media Association) following consultation with representatives of the UK local TV lobby, on publication of Ofcom's *Digital Dividend Review Statement* in December 2007 (Ofcom 2007b).

Ed Richards

Chief Executive
Ofcom
Riverside House
2a Southwark Bridge Road
London
SE1 9HA

6 December 2007

Dear Mr Richards

**“UNITED FOR LOCAL TELEVISION”
A JOINT LETTER FROM COMMERCIAL AND COMMUNITY TV OPERATORS, THE
COMMUNITY MEDIA ASSOCIATION AND LEADING LOCAL TV CAMPAIGNERS**

We are writing on behalf of the Community Media Association, a number of the existing local TV operators (RSLs) and other prominent practitioners and advocates of community, municipal and commercial 'local TV'.

We strongly believe Ofcom has, to date, failed to put forward realistic and practical proposals for the development of a new local TV sector in the UK.

In recent weeks Ofcom has put forward interventionist proposals designed to address many of the concerns of both the PMSE and HD lobby groups. This reflects Ofcom's acceptance that, for these groups, there is a strong risk of market failure in the allocation and assignment of UHF spectrum through auction without some regulatory intervention. However, Ofcom has still not sought to address the concerns of the existing and aspirant local TV sector.

A new tier of local TV has the potential to offer local news programming, social action and community broadcasting and public service content. We understand that Ofcom already recognises the case for using regulatory intervention to achieve public purposes when issuing radio licences. Ofcom's recent (November 2007) policy statement 'The Future of Radio' concluded: "...we believe the regulation...of localness is still required." We argue the regulation of localness requires extension to the television sector.

The latest (2007) Ipsos-Mori research published by Ofcom shows the consumer (personal) demand for local TV on Freeview exceeds all other prospective new services bar more standard definition channels (e.g. BBC1/ITV1). Amongst those who have viewed Channel M in Manchester, the demand for local TV on Freeview is even higher. The greatest demand for local TV comes from low income sub-groups the over-65's and those with minimal interest in digital technology. In the latter category, a remarkable 50 per cent of the entire group rate local TV on Freeview as their preferred application.

Overall, Ofcom's research demonstrated a broad demand for local TV which cuts across all ages and demographics. Even with prudent interpretation, Ofcom's research strongly shows that a very high proportion of the UK public demand the ability to access a local TV channel on Freeview and not just broadband internet.

We strongly advocate the reservation of spectrum to enable the roll-out of a new local TV network. This requires either; (i) capacity to be reserved for local TV services on an existing 'national' PSB multiplex; and/or (ii) capacity to be reserved for local TV services on new DTT multiplexes to be launched in the interleaved spectrum. Neither of these two options would have any impact on the 112MHz of cleared 'digital dividend' spectrum which Ofcom proposes to release via auction (the spectrum which is least technically constrained and therefore most valuable).

We believe it is fundamental that at least one channel (out of 30+ 'national' channels on the DTT platform) is reserved as a 'local' channel for local content, local production and local advertising. Reserving some spectrum for local content, at the main DTT station sites, should be viewed as a

guaranteed protection for local broadcasting and media plurality in an imperfect market.

We trust Ofcom will want to grasp this opportunity to enable a local TV network to develop on the DTT platform providing public service programming, thus ensuring a large majority of the UK population are able to benefit from local DTT channels promoting civic information, engagement with local democracy, local educational initiatives, local public services, local issues and the economic and social development of local communities.

Lord Sandy Bruce-Lockhart, former chairman of the Local Government Association and now chairman of English Heritage strongly urges Ofcom *“to support licences for new local TV channels.”* We share his belief that *“for democracy to flourish information is essential (and that) there is a growing need to tackle the issue of declining interest, satisfaction and trust in politics and governance”*. We re-iterate his conclusion that *“each of these challenges would be greatly advanced by local television.”*

We are pleased to attach the list of signatories, also an appendix to this letter which further develops our arguments and explains why we, as a group, believe it is imperative local TV is guaranteed access to the DTT platform in order to achieve its full potential.

Yours sincerely

JAQUI DEVEREUX

Acting Director, Community Media Association

cc:

Rt Hon James Purnell MP, Secretary of State for Culture, Media & Sport

Rt Hon John Hutton MP, Secretary of State for Business, Enterprise and Regulatory Reform

Lord Currie, Chairman, Ofcom

On behalf of:

Local Television/Restricted Service Licence (RSL) holders:

- Colin Voisey, Capital TV, Media4Creative (1 RSL – Cardiff)
- Philip Reeve, Carlisle TV and Teesside TV, City Broadcasting (2 RSLs – Carlisle and Teesside)
- Daniel Cass, SIX TV, Milestone Group (5 RSLs – Oxford, Fawley, Southampton, Portsmouth and Reading)
- Ben Tagg, York TV and Norwich TV, EBS Newmedia (2 RSLs – York and Norwich)
- Marilyn Hyndman, Northern Visions/NvTv (1 RSL – Belfast)

Community and Local TV Operators and Campaigners:

- Chris Booth, ACTO
- Dave Rushton, Institute of Local Television
- Graeme Campbell, Miac-Rushes, Fife and Media Access Projects Scotland
- Peter Williams, PWTv Ltd
- Nic Millington, Rural Media Company, West Midlands
- Phil Shepherd, Somerset Film
- Chris Haydon, Southwark TV & Community TV Trust
- Murray Dawson, Station House Media Unit, Aberdeen

Public Voice Coalition Members:

- Association of Chief Executives for Voluntary Organisations
- Broadcasting Support Services
- Community Media Association
- CSV (Community Service Volunteers)
- Media Trust
- IBT (International Broadcasting Trust)
- National Council for Voluntary Organisations
- Timebank
- Voice of the Listener and Viewer

APPENDIX

“UNITED FOR LOCAL TELEVISION” A JOINT STATEMENT BY COMMERCIAL AND COMMUNITY TV OPERATORS, THE COMMUNITY MEDIA ASSOCIATION AND LEADING LOCAL TV CAMPAIGNERS

For over seven years, local TV operators and campaigners have received assurances that a post-switchover plan will be developed for the local TV sector. In December 2000, the DTI/DCMS stated in the Communications White Paper, A new Future for Communications:

“All television RSL organisations face a problem of spectrum uncertainty. The Government’s spectrum management strategy gives priority to the roll-out of digital terrestrial television services. This limits business confidence in RSL operators. However, the increased availability in spectrum after switchover may enhance the potential for further RSL services in the future. A post-switchover plan will therefore be developed to give RSL organisations a clearer indication of long-term prospects for local television services.”

Local TV groups are still waiting for this post-switchover plan to emerge. Whilst we have seen consultations on a wide range of issues, Ofcom has yet to launch any dedicated consultation on options to develop local TV in the UK. It has taken Ofcom more than two years to even seriously consider requests from RSL groups for digital trial broadcasts. Despite clear evidence of market failure in local TV, Ofcom tells us it intends to take irreversible decisions on the assignment mechanisms for all DDR spectrum prior to the outcome of its forthcoming PSB review.

We remain unconvinced by those who seek to argue that local TV can prosper on broadband alone. It is quite clear the market has already failed to deliver professionally-produced local news magazine programming via broadband. At no time has Ofcom sought to argue that broadband can deliver commercially viable audiences for significantly more than user-generated original local TV content.

Ofcom’s own analysis concluded that, to be viable, local TV will require access to DTT spectrum:

“In metropolitan scenarios, the greatest impact is felt when DTT is extracted, suggesting that this platform is core to the delivery of a profitable service...” - - The economics of delivering local digital audio-visual and interactive services, Spectrum Strategy Consultants, 2005

According to Ofcom’s own research, around 30 per cent of adults have never used the internet and remain resistant to doing so. In contrast, Ofcom’s latest Digital Progress Report (September 2007) shows that 12.9m UK households (over 50 per cent) have DTT, with over 9.1m households (35.9 per cent) having DTT as their only television platform. This makes DTT the largest digital television platform in the UK and explains the continued scramble to secure ‘Freeview’ capacity by so many broadcasters.

It is incorrect in our view to suggest that a sequential auction of interleaved frequencies (auctioning one

interleaved frequency at a time) will not ultimately lead to the frequencies being amalgamated to form a 'quasi-national' multiplex. Experience in the local radio sector demonstrates how the market consolidates independent operators. Major transmission providers can be expected to bid for frequencies at the largest DTT station sites before buying-up assignments at the smaller sites one-by-one.

The enormous economies of scale enjoyed by national TV channels with a requirement to only offer one UK-wide programme will, in reality, mean that they can out-bid local TV operators when competing for DTT capacity at major transmission sites.

No country anywhere in the democratic world argues that the only way local broadcasters should be able to gain access to spectrum is to out-bid national broadcasters. Such a philosophy is in direct contravention of Ofcom's policy statement, *The Future of Radio*, (November 2007) which concluded: "...we believe the regulation...of localness is still required."

The notion that public policy intervention is fundamental to protect and enhance local content in the radio sector, but not in the TV sector, does not stand up to objective scrutiny. We would generally expect local TV channels to provide significantly greater local news, current affairs and discussion content than a typical music-led commercial radio service. In contrast to music radio, we believe most viewers will generally turn to local TV services for local news loops and other local content.

Ofcom is aware that the vast majority of news is consumed via television. Ofcom surveys shows that, when asked which source of news is used most often, radio comes third at 11 per cent, a long way behind television at 65 per cent and also behind newspapers at 14 per cent (*New News, Future News, Ofcom*, June 2007).

Local TV has never claimed to be a profit maximizing user of DTT capacity. Ofcom's assumption that local TV channels will manage to out-bid other channels to access DTT spectrum is simply wishful thinking – it is not based on any rational analysis of the evidence available.

Similarly, the argument that many local authorities are likely to be in a position to support local TV organisations to bid for spectrum access does not seem to be well founded. As such, Ofcom's position on local TV, as stated in the published DDR consultation, remains highly confused and ill considered.

Ofcom have suggested two methods of providing local TV – 'add/drop' or 'interleaved' – both of which we believe could, in principle, provide an effective solution for local TV at major DTT station sites and their associated relays.

As a group, we reserve judgement on the most appropriate technical solution for local TV until Ofcom have published full technical details on their proposed interleaved 'local' spectrum assignments. However, we are surprised and disappointed that Ofcom's November 2007 consultation on the use of additional capacity at the six 'national' DTT multiplexes makes no reference to the possibility that some of this capacity (e.g. a video stream on "Multiplex 2") could be used by local TV operators adopting 'add/drop' technology. Ofcom currently proposes that in Wales, Scotland and NI this second PSB multiplex is required to reserve capacity for S4C, GDS and TG4 respectively. These channels have 'reserved' access to the DTT platform precisely because there is a concern they may not be able to secure carriage in an open market – the same concern applies to local TV services.

Whatever the distribution mechanism, we strongly advocate the reservation of spectrum to enable the roll-out of a new local TV network. This requires either; (i) capacity to be reserved for local TV services on an existing 'national' PSB multiplex; and/or (ii) capacity to be reserved for local TV services on new DTT multiplexes to be launched in the interleaved spectrum. Neither of these two options would have any impact on the 112MHz of cleared 'digital dividend' spectrum which Ofcom proposes to release via auction (the spectrum which is least technically constrained and therefore most valuable).

We believe reserving capacity in either the 'retained' or 'interleaved' spectrum is the only practical method of ensuring that a local TV network develops across the majority of the UK. As Ofcom's 2006 'Digital Local' report amply demonstrated, local TV channels forming part of a 'network affiliate' model would be commercially viable at the main station DTT sites – so long as they can manage to secure access to the DTT platform. The development of a successful UK-wide local TV network with resource-sharing and access to 'national' advertising will inevitably require some form of 'must carry' status at the major DTT station sites (or appropriate alternative sites where identified).

Almost all other EU countries have a successful licensing regime for local TV. For the UK – which has always been regarded as a world leader in PSB – it is a real concern that the so-called 'digital dividend' could create a digital vacuum in local and regional commercial television.

The five main PSBs have, to date, been allowed to dominate the DTT platform to the detriment of new entrants offering local content. We believe the requirement to carry a minimum of one local TV channel at major DTT sites would be a modest intervention to protect and enhance local news plurality on television outside of the PSBs. Furthermore, we note ITV1 has an effective monopoly in offering TV advertising to small to medium sized businesses operating in the micro regions of the UK. Local TV would significantly enhance TV advertising opportunities for independent businesses in these localities.

We argue that local TV channels on DTT should not only have a remit enabling them to provide local news and current affairs but also to offer airtime for community access, social action and public service broadcasting. We would expect a range of models to develop. We are confident local TV channels in urban and metropolitan areas will want to work with community groups and local universities as so many RSL operators already do.

Of course, we recognise the demand for a wide range of 'national' channels on the DTT platform (particularly high quality PSB channels). However, local TV is currently the only channel genre for which there is significant demand which is not catered for by existing DTT services. The fundamental question at this time is what is more likely to make a significant incremental contribution to public welfare – one new 'national' channel (in addition to all the 'national' channels already on DTT) or a local channel providing local news and local information.

We trust Ofcom will want to grasp this once-in-a-lifetime opportunity to extend access to local news and other public service programming in local communities by putting in place the policy to develop a local TV network on the DTT platform.

ANNEX REFERENCES

Comment (2006) <http://www.commentonline.co.uk/survey/>

Hansard (2007) Column 214-215, 14 April 2007

Ofcom (2006) Digital Dividend Review, Ofcom

Ofcom (2007) *Digital Dividend Review – Regulatory Statement*, Ofcom,

www.ofcom.org.uk/consult/condocs/ddr/statement/ (last checked 01/01/2008)

ABOUT THE AUTHOR

David Rushton studied fine art at Coventry College of Art, later Faculty of Art and

Design Lanchester Polytechnic (and now Coventry University) between 1968 and 1972. On graduation he joined Art & Language and contributed to exhibitions at the Hayward Gallery in London, Documenta 5 in Kassel, Museum of Modern Art in Oxford, Oriel Gallery, Cardiff and in galleries in London, Brussels, Koln, Paris, Geneva and Milan. He left Art & Language in 1975 to write, print and publish on art education and cultural politics, editing with Paul Wood *Politics of Art Education*, Studio International, (1979), working with Rock against Racism and the Anti Nazi League in Scotland. He founded School Press in Edinburgh with Alan Robinson, which underwrote the Red Star Cinema film collective, making and screening labour movement and political films in Edinburgh. In 1979 an exhibition with Paul Wood, titled *Motorshow*, was held at the New 57 Gallery, site of the present Fruitmarket.

Rushton left Edinburgh for Birmingham in 1982 to develop TV production, print and graphics for Birmingham's new Trade Union Resource Centre. In 1985 he founded TU/TV as a trades union media consultancy and TV production company, writing two political screenplays. In 1986 TU/TV was short listed to replace Channel Four's *Union World* before this slot was withdrawn in favour of a city finance programme. He returned to Edinburgh in 1987, establishing the Desktop Publishing Centre at Drummond Community High School, and in 1989 began teaching communication policy and television production, establishing a Masters in Local Television and Management at Queen Margaret University College in 1998 before leaving two years later to run the local TV channel, Edinburgh Television.

Rushton began researching, writing and working on local TV, initially from a trades union point of view in 1982, publishing *Citizen Television: a local dimension to public service broadcasting* with John Libbey in 1993; *Local Television Reviewed: essays on local television 1982-1993*, John Libbey, (1994); *Creating Local Television*, Community Media Association and John Libbey, (1997); *Don Quixote's Art & Television: seeing things in art and television*, School Press, (1998) and *Local Television Renewed: essays on local television 1994-2005*, School Press (2005). In 1995 the John Wheatley Centre published his paper 'Does Scotland need a

Broadcasting Policy?’ as part of a pre-devolution debating series. Also in 1995 he acted as adviser to the Labour Party’s Broadcasting and Telecommunications Team drafting amendments for the Lib Dem and Labour Lords to propose during the passage of the 1996 Broadcasting Act. In 1999 Rushton was commissioned by the Ministry of Hajj in Saudi Arabia to design and engineer a local TV system to provide safety information during the Hajj.

From 1998-2002 Rushton was Managing Director of Channel 6 Broadcasting Ltd that had acquired Restricted Services Licenses to run the local arts and community channel in Edinburgh and the music and arts based Channel Six in Dundee. Between 2002 and 2003 he ran a successful pilot TV station in Aberfeldy, Highland Perthshire using license exempt 2.4Ghz frequencies broadcasting to two hotels, a pub and community cinema. In 2005 he developed a technical solution for delivering local TV using the ‘add/drop’ technique for the introduction of local digital channels at digital switchover from 2008. Rushton has been vice Chair of the Community Media Association, a trustee of The Broadcasting Trust in Scotland and an active member of Media Access Projects Scotland (MAPS). He has been Director of the Edinburgh based Institute of Local Television since 1989 working on cable, city TV on the fifth channel (with *The Scotsman* and *Herald* newspapers) and on spectrum issues relating to local TV restricted services licenses and local digital TV. In 1999 the Secretary of State granted the ‘Institute’ its use of this title in recognition of its work on behalf of local television. Rushton is currently a director of the Berlin based Open Channels for Europe! and of NvTv, Belfast’s local TV channel. Since 2003 he has served as secretary and editor for ACTO, a UK wide advisory committee coordinating the introduction of local public service terrestrial television on digital spectrum, organising an annual Scottish Local TV Forum and circulating pdf files on local TV issues and regulator commentaries.

Since 2004 Rushton has been an External Examiner at the School of Arts and Media at the University of Teesside and in 2006 was appointed Public Interest Fellow at Strathclyde University and an advisor to City University’s Community Media course

run in conjunction with the Roundhouse.

Rushton has just finished working as Artist in Residence at Peacock Visual Arts and Station House Media Unit in Aberdeen, developing a community television channel to explore issues arising in neighbourhood regeneration. He is completing a PhD on 'local public service television' at the University of Glamorgan and has exhibited work undertaken during his residency at Peacock in an exhibition titled *Memory Maps* from February till April 2008.