

# Regulating for Quality and Choice

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## How we regulate

- Content regulation
  - Tier 1: negative regulation: applied to all broadcasters
  - Tier 2: quantitative production and schedule guarantees: applied to public service broadcasters
  - Tier 3: self- / co-regulation of public service remit: applied to public service broadcasters
- *Ex ante* Economic regulation
  - Codes on EPGs, Cross Promotion, commissioning independent producers, advertising distribution etc
- General competition law
  - First have to prove significant market power - driven by increasingly complicated market definitions

## Regulating for Choice

- Different approaches driven by interaction of
  - spectrum availability
  - public obligations / investment
- Largely market-based in TV – given spectrum plenty
  - Public Service Broadcasters required to maintain range of programming – “taken together”
  - Other television licences readily available
- Much more interventionist on radio – disruptive technologies have very different impact
  - “Beauty parade” licensing prevalent
  - Format obligations designed to maintain diversity

## Regulating for Quality: yesterday's gilded inheritance

- Three-way split for public service broadcasting:
  - Public ownership and publicly funding: **BBC**
  - Public ownership and commercial funding: **Channel 4**
  - Commercial ownership and commercial funding: **ITV**
- Different incentives and different competition for audiences and funding
- Virtuous circle creates competition for quality – very little regulation required

## Regulating for Quality: today's deal

- “Negative” regulation through Tier 1
- Public Service obligations set out in five yearly review
- “Positive” regulation through Tiers 2 and 3
- Limited intervention in the commissioning process – encourage commissioning on merit
- Future pressure when public service privileges outweighed by cost of obligations:
  - Nobody can make you be a public service broadcaster
  - Nobody can make you make good programmes
- Key challenge: how to replicate competition for quality in a very different future

## Regulating for Quality: tomorrow's solution?

- Quality costs: so follow the money
- Regulators can create frameworks but not spend money
- Need to invest in future frameworks of accountability, underpinned by regulation but driven by service providers