



**Education and Culture Committee
Scotland's Educational and Cultural Future**

Trans Media Watch and the Scottish Transgender Alliance

1. About Trans Media Watch

Trans Media Watch (TMW) is a charity registered in England whose aim is to ensure that all forms of media treat transgender (trans) and intersex people and issues with accuracy, dignity and respect. At present it focuses its work in broadcasting on organisations operating across the whole of the UK. In the event of Scotland becoming independent or further devolving regulatory authority in relation to media, it would seek to register in Scotland and to engage directly with any Scottish regulatory bodies and Scottish-specific broadcasters. It has existing staff based in Scotland and familiar with the Scottish broadcast and wider media landscapes.

2. About the Scottish Transgender Alliance

The Scottish Transgender Alliance (STA) is the only national transgender specific equality policy project currently funded in Scotland and is based within the Equality Network. The

STA works for full equality and human rights for all trans and intersex people in Scotland. The STA has partnered with TMW on this submission.

3. About the impact of an SBS

TMW and the STA believe that an SBS could contribute to improved standards across Scottish broadcasting through a constitutional commitment to represent all of Scotland's people. Whilst the BBC has made a commitment of a similar nature in its charter, it is our opinion that it is poorly worded and that this has contributed to ongoing problems with its application, meaning that groups like transgender and intersex people have faced serious problems with misrepresentation and under-representation. We would see the formation of an SBS as providing an opportunity to improve on this.

In our day to day work over the past few years we have repeatedly found that media organisations draw on the standards of others in setting their own standards (for instance when deciding how it is reasonable to describe the gender of trans people). We feel, therefore, that a well written SBS commitment to fair and equal representation of socially disadvantaged groups could help to raise the bar across the industry, nationally and even internationally.

4. About the regulation of Scottish broadcasting

TMW has engaged with Ofcom on several occasions over the past four years in an attempt to challenge misrepresentations of trans and intersex people in television and radio. We have found its staff sympathetic and keen to see improvement, but unfortunately we have found its efficacy in practice to be very limited, largely due to problems with the Broadcasting Code and its application, as follows:-

- Section Two: Harm and Offence. Whilst this section of the code commits the regulator to *provide adequate protection for members of the public from... harmful and/or offensive material*, it does not acknowledge the greater vulnerability of groups already facing social stigma¹. Further, it makes decisions about offence based in large part on the number of complaints it receives, making it difficult for minority

¹ Transgender and intersex people were identified as a vulnerable group in the Offences (Aggravated by Prejudice) (Scotland) Act 2009.

groups to have their voices heard and thereby making it difficult to ensure non-prejudicial representation of such groups

- Ofcom's constitution requires that it have regard to the likely composition of audiences when assessing harm and offence. We feel that this elides issues around the imitability of content. For instance, a programme which draws humour from the mocking of trans individuals (for recent examples, see *Ant & Dec's Saturday Night Takeaway* or *Mock the Week*) does not cease to be problematic if trans people avoid watching it as they may still be confronted in public places by people imitating such programmes in order to mock them², and there is often a concern that such mockery will lead to violence³.

In setting up its own regulator, Scotland would have the opportunity to resolve deeply rooted problems of this sort, ensuring that the risk of harm to vulnerable groups was properly addressed and decreasing the risk of misrepresentation. Where issues of accuracy arise, TMW and the STA would like to see any new regulator in a position to draw on the balance of expert opinion rather than relying on the weight of non-expert opinion and thereby effectively removing protections for poorly understood minorities.

We would hope that any new Scottish regulator would take into account the wider cultural effects of the misrepresentation of minority groups when formulating and applying its code; and that it would also account for the imbalance in information available to the public that is created when members of minority groups are underrepresented as writers, presenters and speakers in broadcast media.

5. About this consultation

² *How Transgender People Experience the Media:*

<http://www.transmediawatch.org/Documents/How%20Transgender%20People%20Experience%20the%20Media.pdf>

³ *Transphobic Hate Crime in the European Union:*

http://www.ucu.org.uk/media/pdf/r/6/transphobic_hate_crime_in_eu.pdf

TMW and the STA feel it is imperative that minority concerns be given due weight in the establishment of any new state supported broadcast organisation or regulator.

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