



BSAC INTERVIEW SERIES

INTERVIEW WITH JOHN WHITTINGDALE OBE MP

The BSAC Interview Series continued on 13 June 2013 when John Whittingdale OBE MP, Chairman, Culture, Media & Sport Select Committee was interviewed by William Bush, Director of Policy, Premier League. The event was sponsored by PwC. This report is an abridged version of the discussion.

William Bush introduced John Whittingdale. John was currently Chairman, Culture, Media & Sport Select Committee, a post that he had held since 2005, as well as Member of Parliament for South Colchester and Maldon, Chairman of the All Party IP Group, Vice Chairman of the Conservative Parliamentary Party 1922 Committee, and a Permanent Observer to BSAC.

John has a background in economics and had worked in both Whitehall and in the City: having worked for the Conservative Research Department he served as Special Adviser to three successive Secretaries of State for Trade and Industry between 1984 and 1987; he then took a position at NM Rothschild Merchant Bank, before returning to Government work in 1989 where he was appointed Political Secretary to the then Prime Minister, Margaret Thatcher. Since becoming an MP in 1992, John has served as a PPS and held a number of Shadow Ministerial positions.

WILLIAM BUSH I want to start off with the politics. Obviously people follow political developments very seriously, but you actually are one of the politicians that set this agenda. I will begin by saying, both from personal experience and from talking to others, that people now take Government Select Committees with real significance – for example, Margaret Hodge’s recent examination of Google at the Public Accounts Select Committee, or your own Committee’s work on Leveson. It is easy to forget they were not invented until 1979. How have things improved over time?

JOHN. WHITTINGDALE Things have changed greatly. Select Committees have become unquestioningly more powerful, principally because the media report their activities much more than they once did. There were Select Committees before 1979 – the Public Accounts Committee has been around for a long time – but Departmental Committees came into being in 1979, thanks to Norman St John-Stevas. To begin with they were quite low profile, the only one from that era that I can recall having received a high profile was John Gilbert’s questioning around Westland. However, things have changed greatly in recent years: I chair a Committee that covers what many people would say is a fairly small part of Government, but we get more coverage than almost any other Select Committee because the issues that we deal with are things that people are interested in, and can see impact their everyday lives, such as press regulation, the Olympics and the BBC. Press regulation has changed everything.

We started looking into this thinking that there was something to find, but with no idea what we were going to uncover; and while we were not single-handedly responsible – the Guardian did a lot of research to expose what was happening – when we started bringing people in and putting the allegations to them we gave the investigation a momentum that it otherwise would not have had. Also, we began using Select Committee powers that had never been used before, such as serving notices on lawyers requiring them to produce documents. Then we famously wrote to James and Rupert Murdoch and Rebecca Brooks, summoning them to appear before the Committee: Rebecca Brooks said that she would appear; James Murdoch asked if he could come in September, which was eight weeks later; and Rupert Murdoch refused. At this point we sent the Sergeant-at-Arms to serve warrants instructing them to appear, something that had never happened before, and they did!

W.B. From the outside looking in, it feels now that there are a lot of junior ministers who would be jealous of the power and influence, influence as perhaps distinct from power, that Chairman of Select Committees now have?

J.W. I have never been a Minister, but being a Select Committee Chairman has been fun, and I do know that Chris Mullin was very clear in his memoirs that he found being a Select Committee Chairman much more satisfying than being a Junior Minister. One of the reasons why this is an enjoyable role is that we can ask the difficult questions and, unlike in the House, where any good politician can give an answer that bears absolutely no relation to the question asked, in a Select Committee you simply go on asking the same question until you get an answer. People know that this is high profile, public and widely reported, and that careers have been destroyed. Another factor is that a Select Committee is at its most effective when it is unanimous. There has only been one occasion where my Committee has suffered a party political divide, which clearly diminishes the authority and credibility massively.

W.B. Is this the effect of the Coalition, or is this now politics? If the Government has a huge majority then they could override the Select Committee, but where there is not a Coalition Agreement, does the debate within Select Committees fill this gap?

J.W. To some extent this is true, and on the whole Select Committees tend to operate along the Coalition lines, although this has not been the case with my one. However, part of the job of the Chairman is to try to achieve a unanimous report if you possibly can. This involves compromise, so the Opposition will generally try to work with us to find a form of words that suits everybody. Sometimes this will not be possible, and there have been some heated debates. Another thing is that we have had some quite strong members, such as Gerry Sutcliffe, formerly a Departmental Minister, and Ben Bradshaw, who used to be Secretary of State; their participation in the Committee gave it extra authority and credibility.

W.B. Does turnover cause a problem? I know that, amongst others, you have recently lost Therese Coffey and Damien Collins.

J.W. In their cases, I spoke to them when they left to become PPSs and they both told me that they had enjoyed being on the Committee. But obviously if you have ambitions to advance, you have to become a PPS.

W.B. Is 'fun' the reason why the Select Committee, and in fact the Department, exists? There have always been rumours that the Department's functions should be merged into other Departments, which raises the question of where the bits should go, but these do seem quite strong at the moment.

J.W. The DCMS's demise has been predicted on an annual basis for about the last ten years, if not more. DCMS has some very serious responsibilities, and most recently it also took on responsibility for overseeing telecoms, which was a huge job. While many functions could go to other departments – arts and sport to Education, heritage to the Department for Communities and Local Government – I do find that the creative industries like having someone that will champion them in Cabinet, and while DCMS is a small department it does focus on its interests. If, say, the industrial parts were merged into BIS, which as a department has more clout, they would be competing for attention with manufacturing amongst other demands. I would be quite surprised if DCMS were broken up.

W.B. One interesting part of the Coalition is the five year Parliament. What will happen when the partners decide to differentiate, and will this include CMS policies, the BBC, Leveson and media regulation? There are a long list of areas where the natural Tory and Lib Dem positions could be different.

J.W. If I speak from a different perspective, that of Vice Chairman of the 1922 Committee of the Conservative Party, this is a live debate and one that I have been contributing to. The declared ambition of the Conservative Party is a Conservative Parliamentary majority, and in order to demonstrate how different this could be I have pressed the Prime Minister to start spelling this out, and to introduce legislation accordingly. This would not necessarily be in DCMS – areas such as the Human Rights Act or the referendum on Europe would be logical fault lines – although the sight of David Cameron and Nick Clegg giving different statements at the despatch box over Leveson was a defining moment. I do not know if the Coalition will hold together until the moment that the election is called.

W.B. Do you think that the creative industries and the audiovisual sector, which fuels so many of our businesses, are in pretty good shape? How does it compare to other countries?

J.W. I think that it is in good shape, We have recently taken evidence on the state of the creative industries, examining what the Government could do to support them, and the message that we received was that they are fantastically successful, in terms of British companies, artists and performers, and also in the state of the industries themselves. If you look at music, there is no question that Britain is still producing some of the most successful artists in the world, and we are also seeing that the decline in monetisation has plateaued and that people are purchasing online content legally instead of downloading it. If you talk to the record companies there is a new positivity about the future – Lucian Grainge of Universal Music recently said that he was planning to invest in new artists for the first time in a long time.

We also looked at the Film Industry, and while there is no question that Britain is still one of the most attractive places in the world in which to make movies, because, amongst other reasons, of our skills base and tax incentives. There is no question that the tax incentive is one of the biggest attractions and without it the studios would not come here. We recently went to see Paramount in Los Angeles, and they showed us the trailer of *World War Z*, with Brad Pitt fighting zombies in Philadelphia: five minutes into the trailer, Jim Sheridan looked at me and said, 'That's Glasgow', which it was! Paramount spent £90 million in the UK making that movie, and when we spoke to them afterwards

they said that they had looked at Vancouver and Cape Town, but that the tax incentive, established skills bases in post-production and various crafts – and also because Brad wanted to spend time in Britain, which should not be underestimated – had informed their decision.

In addition, the domestic industry continues to do very well and we are still making very successful mid-range movies. Also, the games industry is incredibly creative, although we are very concerned that there are serious attempts by certain other countries to poach the industry, and I hope that the recent tax incentive will prevent this. Generally I think that the state of the sector is pretty good.

W.B. Do you think that there is a perceived ‘fluffiness’, or maybe it is the celebrity nature of many of these sectors, but is there a struggle to convince some areas of Government that we are a serious industry? I cannot help but think that, with our volume of economic activity and success, if we were manufacturing widgets then we would receive more attention from the civil service and Ministers. For example, the Hargreaves report had no real economic analysis, it was more a statement of faith that if you break the existing system then ‘green shoots’ will emerge. I cannot imagine many other industrial sectors where an eminent professor would recommend breaking them up, without suggesting a replacement or identifying areas that would benefit, but taking it on faith that this would be a huge success.

J.W. In terms of special treatment the creative industries are receiving tax incentives when traditional employment areas, like cars or steel, do not. I can see the point. The reason is that movies, Hollywood big budget movies especially, can be made anywhere in the world, and that these enormous budgets appear very suddenly within a short space of time – six to nine months – so there is intense competition to attract them into a location. There is a very direct return, and it is immediately possible to identify where a tax incentive is causing something to happen. One small recommendation that we have recently made – and I do not want to pre-empt the Committee, but some studios are beginning to do this – is to put at the end of the credits a section saying how many people were employed and where and how much money is being spent, so that viewers can see just how much employment is being generated and where money is invested into local economies. This issue goes beyond direct employment, if you make a film then you will be generating a huge multiplier effect due to the people that you are hiring directly, and this is better appreciated now than it once was.

W.B. A much underused but quite attractive conservative principle is, ‘if it ain’t broke, don’t fix it’. Do you think that there is a particular enthusiasm to get involved in sectors that are working quite well, and to try to change things, even when there is no obvious upside? For example, straightforward viewing of linear TV, plus its near neighbour shifted viewing, still consumes immense numbers of viewer hours. It seems that there is still a clear difference in viewer perception between linear broadcasting, which is still called TV, and online viewing. Convergence is definitely happening, but public perception is changing more slowly than policy. How do you see this developing?

J.W. I believe that this change is now happening. For a long time, policy makers have tried to change the rules to take account of different behavioural patterns, long before they had become widespread. YouView, which has now been launched, will have an effect, but the fact is that smart TV’s now come with built in facilities to watch iPlayer, YouTube, and VoD services like Netflix or LOVEFiLM. The day when it is as easy to sit and watch a VoD channel as it is to watch linear is beginning to arrive, and this will have a profound effect.

W.B. The Secretary of State, Maria Miller, as well as the Prime Minister, have recently commented around the availability of content in the unregulated internet space compared to what is available in traditional broadcasting. How long do you think that two separate regimes will persist? And how will content on PSB, commercial TV and pay TV be regulated in the future?

J.W. There are policy objectives that are easier to deliver through linear TV, but that does not mean that other forms of delivery should not be regulated at all. Enforcing age restrictions in a cinema, where the teller can personally see if the customer is old enough to view the film, is very easy; likewise you can enforce a watershed on linear broadcasters. On VoD this becomes more difficult, for example, Ely Roth has recently made a fairly violent TV series called *Hemlock Grove*, which is available exclusively on Netflix, and that has voluntarily classified by the BBFC at 18; however, it becomes harder to enforce classifications because content can be viewed at any time of day, and because children seem to be fairly apt at disabling parental locks. And when you move beyond reputable VoD providers it becomes really hard, a lot of the debate – some sensible, some not – is fuelled by the Daily Mail. There is agreement that certain content should be taken down, such as snuff movies or hardcore child pornography, and ISP's are happy to block access to such websites and delete such content from their servers, and they work with the IWF and are quite good at restricting this. However, once you move beyond these indisputable areas into a territory where material is not illegal but is still deeply unpleasant then there is a debate about adult choice or freedom of speech that challenges the entire regulatory structure, with ISP's refusing to block access and citing freedom of speech.

W.B. Does that take us in the direction of either strongly regulated content over traditional broadcasting alongside a different regulatory regime for the internet, so that families can make the decision to just stay in that environment, or will traditional content regulation be relaxed?

J.W. Not necessarily, the BBC exists as a major, state funded, public service broadcaster that produces material that might not otherwise be delivered by the market but for which there is a clear public advantage in having available. For the commercial broadcasters, whilst there is a debate over the extent to which they retain their public service obligations, there is a case for continuing as the nation's favourite mass audience family entertainment channels, and also for providing news content and serious programming. Beyond that, whilst there is a whole plethora of other content providers, there will always be a need for some form of content control, and Ofcom will continue to have a responsibility for adjudicating complaints about harm and offence. For the foreseeable future we will still licence broadcasters, and just because there are still websites outside the country that make a range of materials available does not mean that we should just throw up our hands and say that regulation can no longer be done. There are very similar challenges in a different area that the Government is about to introduce legislation over, the Online Gambling Regulation Bill, where we are going to require all gambling sites that offer service to UK consumers to seek a licence from the Gambling Commission in the UK, which they have not had to until now. We believe that once this system is set up, and there are appropriate kitemarks that consumers have been educated to look for, the vast majority of users will want to have a guarantee that their gambling website has protections and safeguards. For online television, I believe that consumers will want the reassurance of knowing that what they are watching does voluntarily comply with the BBFC's classification and is overseen by Ofcom, and that there are commercial benefits to these.

W.B. I have many more questions but want to open this up to the floor, so will ask just one more. The other side of regulation is economic: can regulators really shape the future of an industry? Should they be more reactive, and let markets, companies, consumers and technology drive the agenda before

they respond to issues that arise? Similarly, should they be making decisions about who is too big? In a world that is exploding with media choice it does seem strange to me that British politics in this area is still dominated by arguments about who is too dominant, and whether somebody owns 60% of the newspaper readership in a provincial town, at a time when people in said town can easily access millions of websites that deliver news. There are various models across Government that are not particularly integrated, and nobody seems to be reconciling them. What would your approach be? Do they need to be reconciled? And how would you do it?

J.W. I think that you are entirely right, to give you an example, the global GMG acquisition was very narrowly focussed on share of radio advertising, and did not accept the argument that there are lots of other places where advertisers can choose to go to other than radio, or that competition is also against local newspapers, the internet, local television etc. It has not really been fully accepted that we are in a completely different world. To give you another example, Holland is spending a lot of time worrying about how to impose a new regulatory framework on printed newspapers, at a time when it is widely predicted that there will be no printed newspapers in five years' time.

W.B. I can remember watching a parliamentary debate when one MP – and this is a commonly held view – complained that Britain lacks global scale in terms of its media companies, and then said that Sky and the BBC were too big... What would your observations on that be?

J.W. It is true that there is not a British Google, but I do not think that it is likely that we will get a Google. We do have a BBC, a Sky and a BT. BT in particular are moving rapidly into this area, having recently made sports rights acquisition and looked into commissioning original content, and will provide real competition for Sky. The BBC is a global player; in terms of its influence it is enormous. And while we may never have home-grown film studios that can make hundreds of million dollar movies like *Man of Steel*, we do have ones that can produce films at the tens of millions level.

W.B. But if one were to emerge it would have 80% of the UK market, and the competition authorities would move in and complain about the size.

J.W. There is that. And while I am critical of Sky sometimes they are often being beaten up for being good at what they do, and having grown rapidly and achieved 10 million subscribers – I remember that people that that they would never achieve numbers like this, and people do forget just what a risk it was for them to try to do what they did, and to some extent I believe that their backers deserve to get a decent return on their investment.

W.B. Enough of me I think, let's go to the floor.

Audience Member How do you prepare for Select Committees? As a group, do you have a sort of question tree model, where you work out how you will respond to possible answers, or do you allocate different areas to different people, or how do you manage this?

J.W. There is no single way, and the different Committees all have different practices: some Chairmen are very tough in that Members are allowed five questions and everybody takes them in turn; I have been more relaxed and encouraged people to ask what they want and to offer thoughts as and when they come up, which does mean that we sometimes overrun, but that does not seem to matter too much. We do have a rough structure and are well served by our clerks, who draw up suggested questions that we try to allocate, but we do wander off topic when the dialogue flows that way. The

only occasion where I made everybody plan exactly how to structure the debate was for Murdoch, but as we had an audience of a billion or so that was probably sensible for the occasion.

Audience Member I was intrigued by your comments about BT, having followed the expansion of DCMS to include the telcos. I have watched the telcos, across, and beyond, Europe fail to enter the audiovisual sector. BT launched interactive television around 20 years ago, before abandoning it, and Telefonica, France Telecom and Deutsche Telekom have all floundered and withdrawn from involvement in film. Do you see the telcos being more effective in this sector in the future?

J.W. I remember seeing a trial for VoD in about 1980 where the test house was filled with banks of equipment, so things have come on a long way since then. BT Vision has now decided with its Premier League rights acquisition to move seriously into this territory, which can only be a good thing as it will increase competition and put up bills revenue; this is something that Liberty's recent acquisition of Virgin Media may also contribute to. The best solution to lack of competition is not regulatory intervention, it is to try to get tough competition, and the telcos are moving in this direction.

Fiona Clarke-Hackston I am fascinated to hear how the Committee conducts its work, but want to ask whether the nature of policy making has become more difficult over the years. There are fewer things that can be controlled directly; intervention is more difficult; and the industry is more complex than it used to be. One constant refrain is that, exacerbated by recent Government cuts, DCMS amongst other Departments have lost their institutional memory, which causes difficulties in communicating the historical application of regulatory regimes and the applicability of past developments to the present. How can this be best addressed, and will it be a continuing problem?

J.W. This is a problem. DCMS is unlike many other departments in that it has a large number of NDPB's that actually do the work, such as Sport England, English Heritage or the Gambling Commission, and its role is often more about allocating money to these. To some extent, these bodies provide a lot of the input into policy making as well. The body that is by far the most important is Ofcom, which has a very good reputation in terms of the quality of the research and analysis that they do. The problem is slightly more acute for DCMS than other Departments because it was smaller to begin with, but I do slightly marvel at how Ed Vaizey manages to cover his range of responsibilities, especially now that he is also responsible for telecoms.

Martin Smith My question follows on from the previous one, and relates to the nature of evidence that is submitted to your Committee. One group that is notable for their absence from the list of evidence providers are the universities and, if you consider the number of academics that are producing work in this field, it is amazing that none of them submitted evidence in person – there was a one page letter from Bournemouth, but that was all. Seeing as this was probably going to be the only serious investigation into public policy for the creative economy, should you have summoned any academics to appear?

J.W. There was an oral evidence session and, other than Bournemouth, there was someone else from the University sector who participated. Part of the creative industry's remit is covering skills, and obviously we heard from Creative Skillset, but in terms of direct academic analysis, a lot of the bodies that submitted evidence based their work on or otherwise cited academic research, so to an extent we were incorporating these perspectives.

Jeremy Mayhew I want to ask about public funding of the arts. Historically it has been the case that this has been primarily about achieving cultural, educational or social good, but in the last month I read that the Secretary of State had made the case against cuts on the ground that arts were significantly an economic benefit, benefitting national income and GDP, and that such public funding was vital to the Government's growth agenda. Does this surprise you? And do you share her views?

J.W. The success of a Secretary of State is often measured by the grounds of how successful they are at defending their budget, and there is no question that, as the DCMS budget is being cut, Maria Miller will have to make this case to Treasury, and also the best way to persuade them of anything is to demonstrate an economic return. This was how I worked with the games industry to achieve the recent tax breaks, and was also how the film tax break was justified – Paramount spending £90 million on one film virtually paid for the tax break alone. So, that Maria Miller uses economic arguments and defends her departmental budget is unsurprising. On the other hand, I do think that there is a case for spending public money on the arts, just as with other things that are for the general benefit of the nation that would not be produced without public subsidy.

Audience Member I have a question about the Competition Commission: there have been a couple of recent cases involving local media where mergers have been prevented, and also Project Kangaroo, the VoD service modelled on Hulu in the USA, was blocked. In all of these, have the Competition Commission failed to take into account the ways in which markets are converging? And if so, how is it possible to make the case that blocking such deals is damaging in economic terms?

J.W. It is difficult because the thinking behind the Competition Commission, and before them, the OFT and the MMC, was that political considerations should be taken out of decisions about competition issues, but I do appreciate the view that they are perhaps not taking proper account of the changes to the media landscape. At present, the extent to which politicians can intervene directly is limited, but I do agree that the system is not currently working quite how it should.

Question On the front page of today's FT there were a series of articles about companies that are making large amounts of money from data mining for marketing purposes, which are at present very lightly regulated. Is this something that you might look at in the future?

J.W. This is a huge subject and gets into issues around copyright and ownership, and the extent to which commercial companies can be required to divulge the data that they hold, or that customers are aware of the permissions that they have given, and what protections they have. I believe that this area needs wider examination.

Mark Leason One of the biggest problems facing professional sport is the unlawful retransmission of live broadcasts, which is undermining the successful industries in Sky and BT; in other countries, particularly Spain, the pay-TV market is collapsing due to the volume of illegal streaming. To what extent is your Committee worried about these issues? And also, what are your thoughts around the fact that sport is paying the majority of costs around integrity that allow the kitemark system, which you previously mentioned, which allow gambling to operate effectively?

J.W. This touches on the issue of IP. I also chair the All Party IP Group, which carries a huge overlap over the Select Committee. There are things going on in this field, in terms of tackling what is illegal, the City of London Police has recently set up a new IP crime unit that will deploy a lot of resources to enforce piracy laws; also, rights holders are having success in using existing legislation

like the Fraud Act, the Proceeds of Crime Act or the Copyright Design Patent Act to tackle pirates. There is also the Digital Economy Act, which has not yet been used. It is undeniable that intellectual property and the vibrant creative sector that depends upon it bring significant economic benefits to this country; any changes to legislation should take this into account, and we should be leading calls internationally to defend the importance of IP. In terms of your specific question about sports rights and gambling, I know that the rights owners are in favour of the gambling UK licensing, because it will help ensure integrity; the issues around making gambling operators contribute towards sport is another area, which the Committee did not examine at the time.

W.B. Thank you, you have been very generous with your time, and typically open and straightforward with your replies. Thank you.

Fiona Clarke-Hackston, Chief Executive, BSAC, thanked John Whittingdale OBE MP for his interesting and insightful comments, and thanked PwC for their sponsorship of the event.