How can the BBC deploy personalised media content recommendations responsibly?

by

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Contents

Abstract- - - - - - - - - - 6

Acknowledgements - - - - - - - - - 7

1.. Introduction - - - - - - - - - 11

1.1. What is Responsibility? - - - - - - - 12

1.2. Thesis Outline - - - - - - - - 16

2. Why should we care that the BBC (in particular) deploys personalised media content recommendations responsibly? - - - - - 25

2.1. The BBC is not a private company - - - - - - 26

2.2. Citizens more than consumers - - - - - - 29

3. Why should we care that personalised media content recommendations are deployed responsibly? - - - - - - - 41

3.1. What are Recommender Systems? - - - - - - 42

3.1.1. What is Machine Learning? - - - - - - - 44

3.1.2. Models of Recommender Systems - - - - - - 50

A. Collaborative Filtering - - - - - - - 51

Ratings – Explicit and Implicit - - - - - - 52

Issues with Collaborative Filtering Approaches - - - - 54

B. Content-Based Recommenders - - - - - - 55

Issues in content-based recommenders - - - - - 58

C. Hybrid Recommenders - - - - - - - 60

3.2. Concerns with Recommender Systems - - - - - 63

3.2.1. Social Concerns - - - - - - - - 63

3.2.2. Individual Concerns - - - - - - - - 69

3.2.3. Concerns regarding Impacts on News, Journalism and Public Service Media 76

4. The BBC and Public Service Broadcasting - - - - - 84

4.1. The Role of the BBC in UK Society - - - - - - 85

4.2. Public Service Broadcasting - - - - - 89

4.2.1. The Responsibility of Broadcasting and Promoting Democracy - - 91

4.2.2. Fostering National Identity and Community amidst Diversity - - 93

4.2.3. The Function of Broadcasting - - - - - - 97
4.2.4. A Public Service- - - - - - - - - 100
4.2.5. The Best of Everything - - - - - - - 102
4.3. Public Service Broadcasting and the Public Sphere - - - 106
4.4. Towards Public Service Media - - - - - - 112
4.5. Public Service Broadcasting – A Reiteration - - - - 121
5. The Legal Responsibilities of the BBC - - - - - 124
5.1. The Charter - - - - - - - - - 125
5.1.1. The BBC's Mission - - - - - - - - 126
The Public Interest - - - - - - - - 127
To Inform, educate and entertain - - - - - - 133
5.1.2. The BBC's Public Purposes - - - - - - - 135
Public Value - - - - - - - - - 135
Public Purposes - - - - - - - - 139
5.2. Ofcom's Broadcasting Standards Code - - - - - 148
5.3. General Law - - - - - - - - - 151
5.3.1. Freedom of Expression - - - - - - - 151
Freedom of Expression, Public Service Media and Recommender Systems 160
5.3.2. Right to Privacy and Data Protection - - - - - 162
Privacy - - - - - - - - - 163
Data Protection - - - - - - - - 165
5.3.3. Other General Laws - - - - - - - - 171
Contempt of Court Act 1981 - - - - - - 172
Defamation Act 2013 - - - - - - - 172
Representation of the People Act 1983 (and related) - - - 174
5.3.4. Who is the BBC responsible towards? - - - - - 175
6. The Analytic Framework - - - - - - - 178
6.1. The Responsibilities of the BBC and the Four Core Responsibilities of the Analytic Framework - - - - - - - - - 179
6.2. The Political Context of the Analytic Framework - - - - 188
6.2.1. Liberalism - - - - - - - - - 189
6.2.2. Democracy - - - - - - - - - 195

6.2.3. The Rule of Law - - - - - - - - 201
6.2.4. Liberal Democracy and Why It Matters - - - - - 207
6.3. The Four Core Responsibilities of the Analytic Framework - - 209
6.3.1. The Place of Democratic Deliberation - - - - - 209
6.3.2. Our Need for Epistemic Trust - - - - - - 221
6.3.3. The Recognition of Difference - - - - - - 233
6.3.4. The Individual's Development of the Human Capabilities and the Defence of their Human Rights - - - - - - - - 243
6.4. Summing up the Analytic Framework - - - - - 256
7. The BBC and Recommender Systems - - - - - 260
7.1 An Account of methodology - - - - - - - 262
7.2. Three BBC Platforms - - - - - - - - 269
7.2.1. iPlayer - - - - - - - - - - 271
7.2.2. BBC Sounds - - - - - - - - - 274
7.2.3. BBC News - - - - - - - - - 278
7.3. The process of developing BBC Recommender Platforms - 282
7.3.1. Content - - - - - - - - - 287
7.3.2. Metrics - - - - - - - - - 289
7.4. How the BBC approaches concerns about Recommenders - - 291
7.4.1. Machine Learning Engine Principles (MLEP) - - - - 291
7.4.2. Business Rules - - - - - - - - 293
7.4.3. Human Values Approach - - - - - - - 296
7.5. Tension in the BBC's deployments of recommender systems and its Public Service values - - - - - - - - 297
8. Applying the Analytic Framework - - - - - 303
8.1. The First Pass: Cashing out the Analytic Framework - - - 303
8.1.1. To Support the Place of Democratic Deliberation - - - - 304
8.1.2. Our Need for Epistemic Trust - - - - - - 306
8.1.3. The Recognition of Difference - - - - - - 310
8.1.4. To Protect Human Rights and Promote the Development of Human Capabilities - - - - - - - - 312
8.1.5. Implications of the Rule of Law - - - - - - 315

8.2. The Second Pass: Assessing the BBC's Deployment of Recommenders 318
8.2.1. To Support the Place of Democratic Deliberation - - - - 319
8.2.2. Our Need for Epistemic Trust - - - - - - 321
8.2.3. The Recognition of Difference - - - - - - 323
8.2.4. To Protect Human Rights and Promote the Development of Human Capabilities - - - - - - - - 324
8.3. Third Pass: What the BBC could do to further meet its core responsibilities 326
8.3.1. Develop the subjective sense of 'being' a citizen. - - - - 327
8.3.2. Epistemic Trust and provenance – recognising a recommendation - 328
8.3.3. Further research into diversity - - - - - - 329
8.3.4. Develop a user space for learning - - - - - - 330
9. Conclusion – A Final Thought - - - - - - 332
Afterword: Reflecting on the use of Role and Legal Responsibilities in my Thesis - - - - - - 333
Annexes - - - - - - - - - 339
Bibliography - - - - - - - - - 426

Abstract

It is well observed that recommender systems are one of the main success stories in the development of algorithmically driven technologies, and they are now adopted by many digital media companies for the personalisation of their content. The BBC is also in the process of deploying recommender systems to personalise the distribution of their media content. However, it is important that we ask how the BBC is able to deliver personalised media content recommendations responsibly, because unlike other media companies also deploying recommender systems, the BBC has a unique body of responsibilities. In this study we set out to identify what these responsibilities are and by defining responsibly as a combination of role responsibility, grounded on the BBC's role as the nation's primary public service broadcaster established by Parliament and accountable to the public, and legal responsibility, the sum of relevant laws and regulations, we are able to gather a clear list of the BBC's responsibilities. I distil this list down to four core responsibilities, derived from two sources: a) political philosophy, and b) jurisprudence about the importance of speech in a democratic society, and ground them in a liberal democracy under the rule of law. These core responsibilities are to support the place of democratic deliberation, our need for epistemic trust, our recognition of difference, and the protection of our human rights and the development of our human capabilities. By applying this framework, I am able to articulate what it means for the BBC to deploy recommender systems responsibly. In turn I will also use this framework as a tool to assess and evaluate the current BBC's practices and operations in deploying recommenders, and ultimately to propose suggestions as to how the BBC can deploy recommenders more in line with its responsibilities.

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1. Introduction

This study starts with a question: How can the BBC deploy personalised media content recommendations responsibly? It will end with an answer to that question: the BBC will deploy personalised media content recommendations responsibly if it fulfils certain sets of duties. Between these two points will be, in the most part, an argument to support and demonstrate the plausibility of those obligations.

Let us begin by looking at this argument head on. The first premise of our argument is constituted by our definition of responsibility, which in the context of our research question, we define as the sum of the BBC's role responsibility and its legal responsibilities. This chapter will look to add substance to this definition and clarify what we mean by them. In short, however, role responsibility is rooted in the role that that person or organisations is expected to play – for the BBC, its role as the nation's primary public service broadcaster. Its legal responsibilities are those established in Parliament and spelt out in law, not least its Royal Charter.

The second and third premises look towards adding content to these two models of responsibility – to say what specific duties are included in them, given the context of the BBC's deployment of recommender systems. We will address these in chapters four and five.

In conclusion, if we agree that the BBC fulfils the obligations founded on the role it plays as well as its legal responsibilities, then it acts responsibly.

1.1. What is responsibility?

Before we can account for what the responsibilities of the BBC are, we must articulate what we mean by 'responsibility'. After all, the term is used in so many different ways. We might have to take responsibility for matters, we might ask whose responsibility it is to clear up this mess, what are a student's responsibilities, or what responsibilities come with this new job, and so forth. We might just ask what it means to be responsible in the sense of pinning down the connection between my personal thoughts and the consequences of my actions. All these ways of thinking about responsibility are not the same, even if there is something common at their core – a family resemblance. This diversity increases when we begin to consider the various disciplines that employ the term: It is used in legal, sociological, psychological, and moral philosophical fields, each having a vocabulary of their own of related terms and ideas (Auhagen & Bierhoff 2001, 3). Many of these uses overlap, often substantially – such that to identify one is not necessarily to exclude another.

Nonetheless, there have been various taxonomies (most famously Hart's) that have sought to separate different ways that we might think about responsibility. For example, Hart considered responsibility as causal, as liability, responsibility as concerned with specific roles, or as the minimum mental or physical capacities by which we may speak of being responsible (Hart 2008 [1968], 211-230). In the most part we do not need to get bogged down in these different senses but there is one theoretical distinction that is worth paying a little attention to. Cane expresses some dissatisfaction with Hart in that he gravitates strongly towards what Cane calls 'historic' responsibility – in the sense of being concerned primarily with 'ideas such as accountability, answerability and liability' that 'look backwards to conduct and events in the past' (Cane 2002, 31). Cane is keen to draw our attention to what he terms 'prospective responsibilities' – these 'look to the future and establish obligations and duties', which are then sub-divided into 'productive' and 'preventative' responsibilities, focusing on producing 'good outcomes' or

preventing 'bad' (*ibid.*). Cane also notes that attention is commonly drawn to historic responsibility, emphasising more strongly the 'law-applying and law-enforcing institutions at the expense of the activities of law-making institutions' (*ibid.,* 34)[1], but that prospective dimensions are as vital, if not, in some ways, more so than historic[2]. This distinction is valuable to us in that when we think of the ways that the BBC might be responsible in its deployment of recommender systems, we are thinking less about what harms have been produced, and much more about producing certain good outcomes (encouraging and promoting outcomes like greater democratic health) and preventing certain bad outcomes (such as discrimination, the marginalisation of specific communities, the privileging of groups or outlooks, or allowing the conditions of misinformation to persist). As such, as we try to engage with the question of the BBC's responsibility, we begin by noting that we are primarily interested in recognising its prospective responsibilities, in the obligations and duties that the BBC faces.

A key element of Cane's analysis here directs us towards thinking about role responsibility. Hart accounts for Role Responsibility as follows:

> "Whenever a person occupies a distinctive place or office in a social organisation, to which specific duties are attached to provide for the welfare of others or to advance some specific way the aims or purposes of the organisation, he is properly said to be responsible for the performance of these duties, or for doing what is necessary to fulfil them. Such duties are a person's responsibilities." (Hart 2008, 212)

Hart considered this definition vague, since there were potential marginal cases. Roles may be informal, and the nature of duties in this case might be misleading (*ibid.,* 212f.). I do not think we need to be preoccupied with these concerns – what matters in this definition is the notion of a

[1] Cane notes that the 'law is as much concerned with telling us how to behave as with holding us to account for the way that we have behaved' (Cane 2002, 33)
[2] Cane proposes that it is arguable that 'historic legal responsibility is parasitic and subsidiary to prospective legal responsibility' in that it 'enforces, reinforces and underwrites' prospective senses (Cane 2002, 35).

distinctive place or office and there being specific duties attached[3]. While it operates in a different way, the BBC occupies 'a distinctive place'. It is distinctive in both formal senses and informal. It is formal in that it is a creature of Parliament with a constitutional standing that sets it apart from other broadcasters and organisations concerned with distributing media, which do not occupy a 'distinctive place' in this sense. This formal sense provides it with a well-defined set of duties and responsibilities, such that we would call the BBC responsible if we regarded it as performing those duties or endeavouring to do 'what is necessary to fulfil them'. Expanding this account to draw in Cane's reservations leads us to want to be reminded that the BBC is a powerful actor, with a great deal of potential, if unchecked, to harm, and to harm a great number of people. As such the responsibilities that the BBC possesses are not only 'productive' responsibilities but are duties to 'protect' and to 'prevent'.

The BBC might also be said to occupy a distinctive place in an informal sense also. At the conclusion of his book, Cane offers a series of prompts aimed at helping us to think through the question that we are considering: 'what does mean to say that we [the BBC] are responsible, and what are our [its] responsibilities?' These suggestions are to think about 'seven inter-related methodological recommendations' (*ibid.,* 279) – to think about responsibility: socially, contextually, legally, functionally, relationally, distributionally, operationally. Not all of these are equally fruitful for our analysis – some tie in better than others. If we think about the BBC in the light of contextual and relational responsibilities, which is to consider the context the BBC operations, and the relations it has with people and organisations these, we do begin to gain a clearer sense of the question. At heart, Cane is proposing that the BBC does not only have legal, codified responsibilities, but a range of what we might call moral responsibilities too. For example, a teacher has a range of legal and regulatory duties related to their conduct, but

[3] Hart goes on to add: "A 'responsible person', 'behaving responsibly' (not 'irresponsibly'), requires for their elucidation a reference to role responsibility. A responsible person is one who is disposed to take his duties seriously; to think about them, and to makes serious efforts to fulfil them. To behave responsibly is to behave as a man who would took [sic] his duties in this serious way" (Hart 1961, 213).

merely meeting those would not be sufficient for us to account them as 'a responsible teacher'. The BBC is held accountable against a raft of legal and regulatory responsibilities also, and these will take up the bulk our attention when we survey the BBC's responsibilities, but the BBC's responsibilities extend beyond that. It has a moral duty to fulfil in its role as a public service broadcaster - still more, as we will note in chapter four, the BBC is 'auntie'[4], a 'pillar of the United Kingdom' (Seaton 2021, 92), a familiar, and often valued, feature of British life. To say that the BBC has responsibilities needs also to recognise the place that it holds in British society. These responsibilities are less formal, they are not codified in the same way, there is not necessarily any fixed account of them, and the sanctions that follow are also informal, in the sense that if the BBC is perceived as having failed in living up to these moral duties, it will suffer moral opprobrium, it will risk losing that familiarity with British culture.

The role that the BBC plays, as the nation's primary public service broadcaster, gives us one clear view of what is meant we speak of the BBC acting responsibly. But as we have just noted, the BBC is also responsible in the sense of being held accountable against legal and regulatory responsibilities, and this is different[5]. It is subject to the rule of law and is held to certain sets of obligations laid out in law and through regulatory bodies such as Ofcom. In the first instance, the BBC is responsible to Ofcom, but beyond this, it is responsible to Parliament, which retains the right to revoke the BBC's licence to broadcast. These obligations govern the way that the BBC operates, and it does so on account of the potential impacts it may have on the lives of individuals – both as participants in its operations and those who experience them. If the BBC is found to have failed to have met its responsibilities, then there are sanctions that can follow – it

[4] Briggs notes that the term became common following the second world war (Briggs 1995: IV:195). Seaton, on Woman's Hour, explains that while the term was initially intended to suggest prudish, fuddy-duddy, or not 'with it', it became affectionate over time. 'Aunty, as a term, beyond biological relationship, could also denote a 'friend of the family'. It was a term of familiarity, or closeness. (Women's Hour, 14th November 2022 – Can be found at https://www.bbc.co.uk/sounds/play/m001f4yv , around 50 minutes in)

[5] In the first place, there is someone doing the holding. It does not have to be a different person, however – we can hold ourselves to be responsible for something – but here we consider ourselves as though a third person, and so it might as well be.

could be fined or it could suffer political disapproval. In sum, it must account to the legal system, and so to the public at large, for any failures to discharge its duties.

To sum up, when we speak of the BBC being responsible, we have three things in mind, First, our attention is primarily prospective. We are not blind to what the BBC has done or is currently doing, but we are concerned with marking out what duties they should be seeking to meet, what it is that they must do to be responsible. Second, responsibility is to be found in the role that the BBC plays – the sort of institution that it is, the place that it has in UK society. Third, and this must be seen hand in glove with role responsibility, we see the BBC is also held to a set of legal responsibilities, laws and regulations that apply to the BBC and must be obeyed. These also map out the future obligations that face the BBC and give a definitive weight as to what we mean by saying that the BBC must deploy personalised media content recommendations responsibly.

1.2. Thesis Outline

At the outset, we presented the argument intended to offer an answer to our research question. Over the course of this thesis, I will build towards this answer it and look to apply it to the current operations of the BBC, each chapter occupying a key step in that journey. However, there are two preliminary questions that must also be addressed. They do not bear directly upon the argument, but unless we consider them head on, the argument and the study will fail to give us a reason why it is an argument worth having. The study will be missing vital elements that are key to its value. These questions are:

- Why do we care that the BBC (in particular) deploys personalised media content recommendations responsibly?
- Why do we care that personalised media content recommendations are deployed responsibly?

These two questions address the other components of our research question, and together they articulate the importance of the study.

The first question forms the basis of the second chapter. Recommender systems are increasingly commonplace across many businesses and organisations, but the most prominent and well-known arenas in which they are deployed are commercial operations, especially when considering media content recommenders. There are two answers, then, to this question of why we should care about the BBC in particular deploy this technology. The first is simply that the BBC is not like these commercial operations. The BBC is different in a wealth of respects, it is a product of Parliament, established by Royal Charter, which articulates a range of specific obligations that it must fulfil. Furthermore, it plays a different role than commercial companies do, and so has a different set of responsibilities. The BBC is a public service broadcaster, which has the particular duty to operate in the public interest and commercial operators are bound by none of these specific responsibilities. Aside from those general laws that all companies are bound by, the primary responsibility for these organisations is to satisfy the demands of their shareholders, principally to increase their profits. The second answer addresses the way that recommender systems are utilised within commercial businesses, which is that they tilt towards viewing the user as consumer. By contrast, as a public service broadcaster, the BBC leans towards considering the user as a citizen. While these categories should not be thought of as mutually exclusive, they are different and point towards distinctly different ramifications. In respect to each of these answers to the question, we examine the key issues in the literature, specifically political philosophy and the social sciences and look to conclude that we should care significantly how the BBC deploys recommenders in that its responsibilities are different. Put very simply, we conclude that if the BBC deployed recommender systems in the same way that commercial operators do, we should not consider them responsible.

The third chapter addresses the second question, why we should care about the deployment of recommender systems. This chapter, then, is directed towards the technology – recommender systems and is broken into two halves. The first half is descriptive and looks to account for the technology as it is. The examination begins with the underlying data science techniques which underpin the use of media content recommenders, namely, machine learning. Drawing on core texts in machine learning, combined with technical papers that which outline the range of technical methods that may be employed for the purposes of generating data-driven content recommendations, two primary methods are explained: (a) content based approaches, and (b) collaborative filtering. This is essential since they are the primary methods employed by the BBC and thus vital in understanding how the BBC deploys recommender systems. Without appreciating their characteristics, an evaluation of how the BBC could proceed responsibly would not be possible.

Nonetheless, we should care about the deployment of recommenders because there is an increasing body of literature that recognises its risks. I attend to the wide range of academic literature that addresses concerns that have been raised in relation to recommender systems. Specifically, I consider: worries in regards filter bubbles and echo chambers and the concern that recommenders may constrict a user's exposure to more diverse content; impacts upon the individual, in respect to their privacy and autonomy, as well as the risk of illegal bias; the effects that recommenders have on the processes of journalism and news production, in particular shifting them from 'gate-keepers' to 'gate-watchers'. This literature has stemmed from various disciplines, data science, law, media theory. The former highlighting the problems of measuring for diversity, and how to convert quantitative data techniques to respond to qualitative problems. Literature from law responds to questions of how recommenders risk impacting people's rights, such as privacy or data protection rights. Discussions from media theory has specifically considered the disruption to the media landscape that algorithmic personalisation technologies have posed. Again, we answer our question by proposing that we should care about the deployment of this technology by the BBC, because if the BBC did not address and respond to these concerns, we would not consider it responsible.

In chapter four, we turn to engage with the argument directly, specifically considering the second premise that addresses the content of the responsibilities that stem from the role that the BBC plays in UK society. We begin by identifying what is unique about the BBC, especially considering its role as the nation's predominant public service broadcaster and the distinctive and important role it plays in the UK's social and political life[6].

From this grounding in an appreciation of the BBC's role in the UK social and political life, I want to understand its role and responsibilities as a public service broadcaster. To do this, we examine media theory in order to critically interrogate definitions of public service broadcasting, so as to identify what is regarded as common. Key themes that emerge here include universality of service and appeal, representation and reflection of the diverse communities within the UK, enhancing the capacity and opportunity for democratic engagement and understanding. Two further themes emerged that demanded attention. The first was the degree that discussions of public service broadcasting overlapped with the much-discussed theory of the public sphere, as proposed by Habermas. Once again, there is an extensive and vibrant literature. The focus of this examination, however, is the intersection between the concept and public service broadcasting, especially as it related to the BBC and the context of the UK.

The second theme was the transition that had occurred following the significant technological developments of the 80s onwards. Broadcasting in the later 1980s saw the arrival of satellite and cable services, but these were soon added to by the end of the 1990s by various services

[6] In Annex 1, we trace the history of the BBC in three parts. In the first part we look at the key events that have shaped it into the world recognised organisation and brand that it is today. To establish this historical account, I draw extensively on Briggs' exhaustive five-volume account (1995), but I consulted other histories and accounts (e.g. Crissell 1997, Hendy 2022), augmenting this with histories of the IBA (The Independent Broadcasting Authority, later ITC, the Independent Television Council) (e.g. Sendall et al., six volume history of British Independent Television). In the second part, we describe the BBC recent engagement with technology, tracing the story from the early 1990s to the present, and so including the headlines from the digital era. In the third, we look specifically to the process that followed the BBC's embracing of the potential of personalisation, drawing largely from the BBC's published material as well as speeches and lectures given by prominent figures within the BBC. I also draw on primary research conducted with a range of BBC employees, through correspondence and semi-structured interviews.

grounded on the affordances of the internet, including streaming services, on demand services and the possibility of recommender systems. A variety of scholars have proposed that the term 'public service broadcasting' should be replaced by 'public service media', since new sets of issues have emerged in the wake of these shifts in technology. This shift from 'public service broadcasting' to 'public service media', whether or not we adopt the changed terminology, sits at the heart of the thesis and my argument. When the BBC's sole (or primary) sphere of operation was broadcasting as it was traditionally framed, then its responsibilities were largely well defined. However, it is the arrival of these new technologies, developed and deployed typically in and for the commercial context of maximising engagement and profits, that has shifted the focus towards people being able to choose what to watch and when, and crucially, towards technology that curates media content on behalf of the user. This throws up new sets of issues that the traditional set of responsibilities are no longer adequate for and so need to be reconsidered in the light of.

If we are to understand what it is for the BBC to deploy recommender systems responsibly, we must have a solid idea of why we care about the BBC specifically, its role and the place it occupies as well as how the BBC stands apart from commercial media providers who also deploy recommender systems with motivations drawn from their status as commercial bodies, looking to maximise engagement, or more basically, profit. In sum, we will be able to articulate what responsibilities attend to this role that the BBC plays in UK society.

The fifth chapter, corresponding to the third premise, looks to articulate the BBC's legal and regulatory responsibilities – the laws and regulations that it is obligated to recognise, to which it is accountable to. As such it is devoted to cataloguing and discussing the BBC's legal and regulatory responsibilities. The challenge in this section was holding recommender systems in view, and not just extending to the BBC's obligations in general. The most foundational source is the BBC's current Charter, which we examine and comment on at some length, also consulting

the BBC's Agreement with government and its Operating Licence. Since they are so central to the BBC's Mission and Public Purposes, I sought to reflect on the uses of the terms 'public interest' and 'public value'. In respect to the latter term, starting from Moore's (1995) coining of it, key literature that emanated from this was examined, including how the UK government and BBC sought to make sense of the concept, considering documents and research stemming from both. The second key source from which to assess the BBC's responsibilities is the Broadcasting Standards Code from Ofcom, which, while again general in scope, offered important insight into the key elements of the BBC's responsibilities, especially to the sense in which they are seen in government. From there, I considered the two most relevant features of the European Convention of Human Rights (ECHR), specifically Article 10, the Freedom of Expression, and Article 9, The Right to Privacy. To support this analysis, I have drawn on discussion from academic literature, especially the growing field of literature examining the legal role of news personalisation, as well as relevant jurisprudence. Beyond these discussions, I briefly consider a few pieces of general law. These will be brief for two reasons. First, their relevance to recommender systems is limited; but secondly, conversations and interviews undertaken with BBC staff indicates that the issues highlighted in that legislation are already very much on the BBC's radar and so the deployment of recommenders are already 'responsible' from that point of view.

Chapter five is a major milestone in this study and forms the basis for the development of the analytic framework developed in chapter six. A clear definition of responsibility was grasped in 'role responsibility', highlighting the role that the BBC is expected to fulfil as public service broadcaster. From there, a survey of relevant sources of law and regulation was considered, articulating its duties and obligations. Primarily, having conducted this examination of the laws and regulations, we are now in a position, in Chapter 6, to articulate with precision and appropriate focus what it means for the BBC to deploy recommender systems responsibly.

The sixth chapter addresses the conclusion, offering a first pass at answering the research question. By the end of chapter five we had covered a range of the laws and regulations that applied to the BBC and were relevant to the application of recommender systems. These form the basis of the legal responsibility that applies to the BBC's deployment of recommenders. Put simply, if the BBC were to fulfil these duties beyond question, we would have no option but to say that the BBC was responsible its deployment; if the BBC failed in meeting them, we could straightforwardly say that the BBC was not responsible. At the outset of chapter 6, then, we catalogue these obligations from each of the modes of responsibility in our argument: role responsibility and legal responsibility, sourced from the law. I integrate these two sets and distil them down into simple set of four core responsibilities, which will form the basis of my analytic framework. The BBC has a responsibility to (1) support and encourage democratic deliberation (2) foster and protect epistemic trust (3) recognise and reflect difference (4) respect individual capabilities and human rights.

However, at this point, before I develop the framework, I will pause to place it in context, specifically the UK as a liberal democracy under the rule of law. This is valuable because this context shapes and undergirds our understanding of these concepts. If we were to consider them in a different context – for instance, in the context of China or Hungary, the framework would look and apply differently. Recognising the role of the rule of law, in particular, is vital in that it recognises that the BBC, like all individuals and bodies, public or private, are under the laws of the land and must abide by them.

I turn to examine and develop the analytic framework, exploring each core duty. First, I make explicit the link between each core responsibility and the legal and regulatory background that gave rise to it. Drawing from major accounts from the relevant literature regarding these core responsibilities, I seek to offer a clear account of each. Finally, I demonstrate connections between the core responsibilities and the concerns directed at recommender systems raised in

chapter three, with a view to evidencing both their applicability and relevance, but also to show that they suggest a route to responding to that concern. By the end of the chapter, I will have fully accounted for and demonstrated the aptitude and suitability of the analytic framework for enabling us to answer our research question. We will be able to state what it would look like for the BBC to deploy personalised media content recommendations responsibly.

The analytic framework is, in this sense, a tool, a measure. It enables us, in the first instance, to answer our research question – to give an answer to how the BBC can deploy recommenders responsibly. More than that, however, it enables us to look at the BBC[7], to look at their current operations and comment on whether these can be seen as responsible or not. We can compare the BBC's performance to the core duties and assess whether they are being met. Similarly, we would be able to form assessments and evaluations on proposed adjustments to the ways that recommender systems are to be deployed. Finally, the framework enables us to form recommendations as to how the BBC's deployment of recommender systems can be more responsible. At the end of this chapter, and in chapter eight, I will be demonstrating this analysis.

Chapter seven returns from the abstractions of chapter five and six and draws us back to the concrete operations of the BBC. This will be necessary for the purposes of being able to offer a concrete answer to our research question. If we cannot form a view of the BBC's current operations, we will not be able to apply the analytic framework, nor form recommendations on how the BBC might improve from this standpoint. In this chapter, we survey the current state of play of the BBC's major deployments of recommender systems. Aside from published academic literature on the BBC and its operations, this chapter is informed by published material from the BBC - annual reports, speeches, blog posts and so on, and primary research –

[7] Theoretically, we could use it as a starting point in assessing and evaluating comparative organisations considering similar operations. Ideally, though, we would need to re-calibrate, so to speak, to adjust to the role and legal responsibilities relevant in the new situation.

in person interviews, questionnaires and emails conducted with BBC staff). We outline the operations of three major platforms that are in the process of developing recommenders: iPlayer, BBC Sounds and BBC News. These were selected these for several reasons; they are flagship platforms for the BBC, they attract significant numbers of users, they offer general BBC content and/or significant news and current affairs content, and crucially, have already deployed recommender systems and are continuing to look at how to further these efforts. To support this analysis, attention been paid to the methods that the BBC recommenders employ, including what they are optimised for and what metrics they use in doing so. Looking to comment on the ways that the BBC has already endeavoured to respond to the concerns and challenges that recommender systems raise in relation to their deployment of them. Unsurprisingly, the BBC has already directed itself to considering these and formed efforts to resolve them. These methods are outlined, commenting on some of the ongoing issues that the BBC faces in this regard. This chapter is largely descriptive, but it serves the purpose of re-grounding the study and setting us up to return to the conclusion of the argument in Chapter eight.

Chapter eight offers us another pass at the conclusion of our argument. We were able in chapter six to answer the question, but because of the abstraction of the analytic framework, at that point, our answer could only focus on the ideal. However, following the return to the concrete operations of the BBC present in chapter seven, we are able to apply the framework to the actual deployment of the BBC and to form a concrete assessment of how responsible the BBC has been in its deployment of recommenders so far – how effectively is it discharging its duties. We are also able to form a series of recommendations of what the BBC might choose to do so as to meet its obligations more squarely.

2. Why should we care that the BBC (in particular) deploys personalised media content recommendations responsibly?

In chapter one we addressed our research question, 'How can the BBC deliver data-driven content personalisation responsibly?' and described the argument we were pursuing to offer it a clear answer. However, I noted that there were two side questions that needed to be addressed also. In the first place, they address the other elements of the research question, namely, the BBC and recommender systems. More importantly, they tell us why our research question is important. If we do not care about the BBC's deployment of recommender systems, or if we just do not care about recommender systems, whoever was deploying them, then our research question becomes academic – academic in the sense of 'who cares?' If no-one cares about these things, the BBC or recommender systems, then no-one will mind much at all about how the BBC can deploy them responsibly.

However, in this chapter, and the next, we address these questions, and in each case propose that we should care, that it matters. This chapter addresses the question why we should care about the BBC's deployment of recommender systems. I will offer two answers. The first is that the BBC is a unique organisation with a unique set of responsibilities grounded in the type of body that it is and the role it plays in UK society. This argument is a forerunner of chapter four where we will return to discuss the BBC as a public service broadcaster. Here we are less concerned with describing the BBC's duties and more just registering its uniqueness and the contrast that is evident between the BBC and the typical companies that deploy recommender systems. Our conclusion is that if the BBC were to operate in the same sorts of ways as these companies, we would feel strongly that the BBC were failing in meeting its responsibilities. The

second answer follows from the first: the values we see exhibited by recommender systems, as deployed by commercial bodies, tend towards the values we associate with consumerism. By contrast, the values we associate with public service broadcasters, tend towards the values of citizenship. It is plain that this is not a matter of either/or, either regarding the respective values or of people in society – much of the time people are both. Nonetheless, a contrast can be made and again, if the BBC were to see people primarily as consumers, we would strongly feel that the BBC was falling short in its responsibilities.

2.1. The BBC is not a private company

Jannach & Jugovac (2019) report that 'recommender systems[8] are one of the main success stories of artificial intelligence and machine learning in practice, often leading to huge benefits for businesses' (2019, 17). This leads some to claim that recommender systems are now ubiquitous on the web, especially on media sites (see Elahi et al., 2022). This is unsurprising since they appear to be incredibly popular with consumers. Global Management Consultants, McKinsey report that 71% of consumers expect personalisation, and 76% are frustrated when

[8] In chapter 3, we will consider in some detail the nature and workings of recommender systems but in summary, recommender systems, often using technologies drawn from machine learning techniques, generate predictions as to what a user might find most relevant out of a large body of possible items. In the source of this study, I will refer to them either as recommender systems or as recommenders, but I may also refer to them as methods of AI or data-driven content personalisation. Personalisation by itself, however, does not indicate a recommender system necessarily. There are several methods of personalising content that does not rely upon algorithmic, or data-driven technologies.

Recommenders can be used in a wide number of contexts; libraries – where users can be recommended texts or resources that are most likely to meet their needs; or hospitals – where treatments can be recommended in respect to patient's symptoms and conditions. However, recommender systems are, by and large, more commonly employed in commercial contexts and orientated around consumers' needs. While their earliest examples were made with pure utility in mind (for instance, recommending books or articles on Usenet – Rich 1979; Jannach et al. 2011, *ix*), they were very quickly adapted for commercial ends (*ibid., x*). As the internet rapidly became the arena for business and commerce, the technology was swiftly embraced. The first book written about recommender systems was targeted at marketing professionals[8] (*ibid.*)). The story that follows is well trod; we know that Amazon, Netflix, Facebook, Google, Twitter – these behemoths of the present internet age got where they are today by canny and persistent marshalling of recommender systems. The prefaces and introductions of leading textbooks of recommender systems repeatedly highlight their value to business and commerce.

they do not find it. Similarly, 76% of consumers have been found more likely to purchase when content is recommended and 78% are more likely to refer friends and family and to make repeat purchases (McKinsey 2021; see also Schafer, Kinstan, Reidl 1999; Salunke & Nichite 2022, 1). Personalised content is popular with users for a variety of reasons, especially on platforms with large amounts of information – the primary benefit of recommender for the consumer is the facility to sift large amounts of content to offer predictions of what she might find relevant (see also Yeung 2018, 3). This benefit to consumers inevitably feeds back to the benefits to business in the form of increased sales and revenue.

Recommender systems have become an integral part of the digital media landscape. Netflix, on its route from switching towards streaming digital content from its previous business plan of mailing DVDs direct to customers, famously issued the Netflix Prize, and helped paved the way for 'algorithmic culture' (Hallinan & Striphas, 2016). Running between 2006 and 2009, it held an open competition for engineers to beat its own current system, Cinematch, by more than 10% and drew more than 50,000 participants. The prize was one million dollars (*ibid.*). Netflix has not been the only business deploying recommenders, other companies have also adopted the technology; Amazon, Google, Facebook have all invested in and deployed similar algorithmically driven processes, with the view of increasing the number of people engaging with their platforms. However, the underlying motive is not simply engagement, but profitability.

The BBC has sought to deploy recommender systems for its own content distribution. Utilising recommender systems expands and develops engagement with the BBC's services and extends its reach. It is seen as an invaluable tool in furthering the BBC's public value and achieving its Mission (Hall 2017; Mazzucato et al. 2020, 25).

However, there are significant differences between the BBC and private companies like Netflix or Amazon. While there are legal constraints on the practices of these sorts of companies – they are obligated to follow all of the relevant laws and regulations; beyond these, the only

responsibilities that private corporations have is to satisfy the interests of shareholders, which typically translates into maximising profits. Within the letter of the law, private firms are free to adopt whatever model of recommender they like or pursue any business model they see as appropriate to their particular priorities. Some, like Netflix, may charge people a subscription fee for the services they offer; others, like Google or Facebook, may adopt a 'free to use' model, which means that users are not expected to pay to use their services, but will be expected to consent to have their data mined and shared and sold for whatever purposes the business deems most profitable (Zuboff 2015 & 2018; Yeung 2018). Their systems will be optimised in ways that maximise sales or retention or time-spent, such that the consumers continued use may be sold to advertisers. In other words, they will be framed in ways that are in the interest of the businesses that are deploying them.

This observation brings us back to our the question 'why is the BBC's use of data driven recommenders a matter of concern?' We are concerned because, intuitively, we do not think that the actions and practices of Netflix or Google should be the actions and practices of the BBC. There are important differences to account for. While there are a body of laws and regulations that apply to the BBC as well as other bodies, such as Netflix or Google, the BBC has a particular status and role that demands that it is held to a different, and more demanding, set of duties and responsibilities. These differences lie at the heart of this study and this question. The BBC is unique in a number of ways. Firstly, its constitutional basis is radically different to that of private companies. The BBC is not a private company, funded by its shareholders and in whose interests its shareholders must operate the company. It is established by Royal Charter, a public body, accountable to Parliament in the first instance, but ultimately to the public. Although the BBC operates within the market, it is not a creature of the market, and as a public body it holds a range of responsibilities that do not attach to Netflix or Google or other private companies. These additional responsibilities range from the constitutional to the operational and extend to the promotion of certain sets of values and the injunction ultimately to operate in

the public interest. This is to say that it is to operate on behalf of the public as a whole – not shareholders, the government or even their users. We will unpack and develop a far more detailed account of these responsibilities over chapters 5 and 6, but in summary, they reveal a radically different set of priorities.

So, we are concerned about the BBC personalising its content distribution responsibly because the BBC has a set of responsibilities that stand apart from other commercial operators. The BBC cannot deploy recommender systems in the same way that Netflix or any other private company might do. Our attention, then, is directed towards outlining what the BBC's responsibilities are, which are relevant to the deployment of recommenders, and considering how best to think of them and apply them.

2.2. Citizens more than consumers

A secondary feature that stems from this difference between a public service broadcaster like the BBC and private commercial bodies like Netflix or Google is the way that recommenders are put to work, specifically, the normative mode of engagement that takes place in their deployment. What I mean by this is to observe that recommender systems as deployed by private commercial platforms, engage with their users primarily as consumers. By contrast, the BBC, as a public service broadcaster, promotes viewing individuals as citizens.

This contrast, between citizens and consumers, can be illuminative, but we must be cautious. They might appear as opposites, but the conflict is far more nuanced than that. For instance, it has been observed (Porter 2020) that it is typical that citizens are consumers and consumers are citizens, and there is nothing remarkable in an individual taking on both roles. Again, by the same token there are notable overlaps between citizen and consumer issues – in issues related to advertising, for example, or in consumer protection. Hilmes reminds us that the two terms (which she refers to as a 'dyad') are often presented as a simply contrasting pair, in such a way

that the dynamic between them is obscured, leaving them not opposite and contradictory but 'always and inevitably entwined in a capitalist society' (Hilmes 2004).

The simplest definition of a consumer is probably the dictionary definition: a person who purchases goods or services for their own personal needs (Collins English Dictionary 1994)[9]. As such, the consumer is characterised as an individual, who desires things on their own terms. They want to consume what they want, ideally when they want and how they want. They do this with no overt reference to anyone else – only incidentally or coincidentally are other people part of the equation[10]. Gabriels & Lang provoke these ideas, when they write that 'consumers… need not be members of a community, nor do they have to act on its behalf. They operate in impersonal markets, where they can make choices unburdened by guilt or social observations' (2015, 195). The consumer has become so embedded in capitalist thinking that we often talk of consumerism, where the quality of being a consumer has permeated the full breadth of society, including religion and the public distribution of good and services (Miles 1998, 1; Gabriels & Lang 2015, 202-203).

Meneley says that self-fashioning is a central concern of consumerism (2013); people value the ability to determine their own choices of what to consume and how this contributes to the identity that they want to project. The entry on 'Consumer Sovereignty' in the *International Encyclopaedia of the Social Sciences* (Rothenberg 1968, III: 327) highlights the consumer's expression of wants, as well as the responsiveness of production to wants, as primary components. Both of these are constitutive of consumerism – the individual knows what they

[9] However, as Gabriels and Lang account there has been a growing and extensive literature about the term, so much so that there is a danger of it 'collapsing into a meaningless cliché' (2015, 2). They note that the consumer, and the ways that we can see them, has been talked about and considered in a wide array of modes, some of them contradictory – for instance, the citizen as rebel, the citizen as hedonist, the citizen as seeker and so on (2015).

[10] Others can play some kind of role – as an influence, for example. Solomon (2019) offers the example of 'Gail' who is influenced in what she desires by her sorority sisters. Furthermore, other people may consume and enjoy the same things and that might be nice to talk about.

want, they are solely responsible for identifying their wants, and the optimal conditions are where the consumer's environment – the marketplace – are highly reactive to those wants.

The qualities we associate with the consumer correlates neatly with the features we associate with recommender systems, especially in the ways they are deployed in commercial contexts. The point of the recommender system, like the principle at the heart of consumerism, is to be presented with, and to be able to consume, the things that *I* want. The better the recommender system, the better the consumer experience, the more refined to me the recommendations are, the more tailored to me and my expectations the products to be consumed, and the better the interests of the business are served. When I am watching Netflix, for example, and a programme finishes, the system is fast to recommend me a further show to watch. If the recommendation is a good one, and the prediction[11] of what I will be interested in comes good, and I stop to watch it: the motivation for Netflix is my continued engagement and the increased likelihood that I will maintain my subscription. The same calculation could be seen with Google or Facebook or Amazon – recommendations and commerce make easy bedfellows. It is a win-win for the consumer and the business. The better the recommender system predicts the content that I want to consume, the more satisfied I am, the better the profitability of the company.

By contrast, public service broadcasters lean towards the principles of citizenship. The literature on citizenship is extensive and stretches back a long way – we do not need to get embroiled in it. My aim is to establish a clear sense of what is at the heart of the concept – what most scholars would broadly agree upon, irrespective of their differences[12].

[11] This does appear a divergence from one component of consumer sovereignty, which is that no-one knows what the consumer wants as well as the consumer does themselves (Rothenberg 1968, III: 327). It is the goal of the recommender system to pre-empt the consumer even in knowing themselves – to predict the tastes of the consumer before the consumer has even realised it.

[12] When we speak of citizenship, as well as public service broadcasting, as we will below, we have in mind these as they are found in a broadly Western liberal democratic context. It is noted that if we were to commence this discussion in a different context or with a view to being properly universal, there would be communities that would not recognise or share the definition of citizenship we will consider or of what public service broadcasting might represent.

The Western liberal concept of citizenship has its roots in Greek and Roman thought (Pocock 1992; Clarke, P.B. 1994; Leydet 2023). Pocock draws on each and paints a picture of distinct traditions, each playing a role in the current framing of the conception. The Greek image of the citizen, found most plainly in the thought of Aristotle, draws on the roots of the small city state, where the citizen is, in essence, a clansman, speaking to other clansmen, on matters of concern to the clan (Pocock 1992, 34). A citizen, then is someone who both rules and is ruled[13]. Furthermore, to rule presumes the capacity to rule – specifically in the deliberative, cognitive capacities the citizen possesses (*ibid.*, 38). The second tradition, Roman, shifts the focus away from the political to the legal. The person is increasingly seen as in their relationship to *things*, particularly things as property – which form the basis for the world in which people live: things that we seek to possess or maintain and so on. As such, citizenship is seen primarily through the lens of jurisprudence – specifically the ways that laws governed the ways that people managed things: 'authorisation, appropriation, conveyance, acts of litigation, prosecution, justification' (*ibid.*, 40). As such, to be a citizen is to be a member of 'a community that has shared or common law', to have 'legal standing in that community' – it is a legal status: it afforded him rights and privileges within that community (*ibid.,* 40-41). But it is not a political status in that being a citizen did not imply any access to the law-making dimensions of that society. Pocock continued to trace these two traditions, primarily the latter, forward through the thought of Locke and Rousseau to the present in liberal democracies.

To gain a modern, liberal account of the citizen we can look to Rawls. He suggests that the citizen is a 'free and equal person' with the powers to be 'a fully cooperating member of

[13] Of course, citizenship in Athens was an exclusive affair limited to a small number of men, excluding women, slaves, or anyone who depended on work. At heart, the citizen must be someone freed from the burdens of necessity. Aristotle separated the public (polis) from private (oikos) – all that fell under the latter category were the matters of household and nature. The Athenian nobleman was in a position to employ slaves, as well as women, to look after these matters. The citizen, then, is free and freedom is having the capacity to deliberate in the public forum. This capacity to deliberate is key. (Pocock 1992, 36-39).

society'... 'over a complete life'... allowing them to 'exercise and respects its various rights and duties', meaning that they have 'a capacity for a sense of justice and a capacity for a conception of the good', itself implying a sense of rationality, thought and judgement' (Rawls 1985, 233-234).

In sum, we have three things we can highlight regarding citizenship – it points towards the opportunity to participate in community decision making; it implies a set of rights and responsibilities within the community that shapes the way that individuals relate to one another; it suggests a basic set of capabilities that enable participation in the community, such that to possess those capabilities and be denied the opportunity to participate in the community feels like an injustice[14]. At its heart, citizenship is about our lives together within a society.

[14] Even where critical challenges have been addressed towards the liberal conception of citizenship, certain themes remain present and consistent. For instance, Oldfield (1990a; see also 1990b) discharges a communitarian challenge by observing that the liberal conception of citizenship is individualist and fundamentally views citizenship as a status (1990a, 179). The bottom line is that individuals are sovereign and so that citizenship is about protecting individual's rights from threats that might come from others', primarily the state. As a status, nothing needs to be done to maintain it particularly, beyond 'the minimally civic' and 'respecting other individuals as sovereign' (*ibid.*). Oldfield argues that it is lacking and represents 'an impoverished view of the individual as a social being' with little promotion of 'solidarity or cohesion' or 'common purpose' (*ibid.,* 180). Instead, he promotes a model that leans more heavily towards an Aristotelian position, supported by Rousseau. Individuals are not to be thought of as 'logically prior to society' – their sovereignty is not necessarily considered above the needs of society – to be a citizen is be a member of a community – a community that make legitimate demands upon a person. To be a citizen, then, is to partake in an activity (*ibid.,* 182).

Alternatively another critique could be drawn from Young (1989). She directs her attention to the presumption of universal citizenship, especially within a given society – the sense that citizenship 'transcends particularity and difference' (1989, 250). While it is important that full citizenship status is extended to all members of the community, she suggests that two implications of universal citizenship are problematic. She has in mind the suggestion that all citizens have a common life, and that there ought to be equal treatment under the law. Specifically, she writes:

> "Where differences in capacities, culture, values, and behavioural styles exist among groups, but some of these groups are privileged, strict adherence to a principle of equal treatment tends to perpetuate oppression or disadvantage. The inclusion and participation of everyone in social and political institutions therefore sometimes requires the articulation of special rights that attend to group differences in order to undermine oppression and disadvantage." (Young 1989, 251)

We will outline public service broadcasting in detail in chapter four, but since its inception there have been expressions of caution in seeing broadcasting as a purely commercial, and seeing its users, listeners, viewers, solely as consumers to the neglect of their role as citizens. David Sarnoff in the US and John Reith in the UK, two of the first to articulate a vision of public service broadcasting, recognised the potential of broadcasting as public service (Briggs 1995, I:54), and saw that it should be more than a straightforward commercial enterprise. Reith wrote in his memoirs that the role of broadcasting should be seen in the light of its 'contribution to civilisation', how it is as a 'living force throughout the extended community' (Reith 1949, 134f.)[15].

She describes that although we might claim and even believe that all possess equal status of citizenship, differences between groups and specific communities will likely mean that some will experience barriers to their participation and engagement with the community, whether imposed from without or from within[14]. Consequently, the presumption that all citizens of a society have a common life, and that all should experience equal treatment under the law, need to be open to question.

However, while Oldfield and Young have directed challenges at conceptions of citizenship, specifically liberal conceptions of citizenship, there remains much at the heart of it that is shared. For instance, a little later Young states that (Young 1989, 262):

> "Theorists and politicians extol the virtues of citizenship because through public participation persons are called on to transcend merely self-centered motivation and acknowledge their dependence on and responsibility to others. The responsible citizen is concerned not merely with interests but with justice, with acknowledging that each other person's interest and point of view is as good as his or her own, and that the needs and interests of everyone must be voiced and be heard by the others, who must acknowledge, respect, and address those needs and interests. The problem of universality has occurred when this responsibility has been interpreted as transcendence into a general perspective."

Here, even though she challenges its liberal interpretation, the three points we highlighted above remain present and vital to our understanding. Citizenship is about the voicing and deliberation of different points of view in order to find working solutions of what is in the communities' interests; it is about justice – that people are treated in ways that are equitable – identifying and working out the rights and the responsibilities that we have towards one another. In short, citizenship is about our lives together. In much the same way that Oldfield regards the term 'private citizen' as an oxymoron (Oldfield 1990a, 181); it is impossible to think of citizenship without also thinking of the society that one is a citizen of.

[15] This is not new. We can see the roots of it in Adorno & Horkheimer's critique of what they called the 'culture Industries' (1944/1996), Habermas's description of the structural transformation (decline) of the public sphere (1962/1989), even Matthew Arnold's *Culture and Anarchy* (1869) insofar as the people need to be enculturated, and not merely sold things. For instance, Dwight MacDonald writing in 1957 decried the commodification of mass culture and the conversion of citizens into consumers – where cultural content is sold as a commodity it will replace the 'unsettling and unpredictable (hence unsaleable) joy, tragedy, wit, change, originality and beauty of real life… The masses… come to demand trivial and comfortable cultural products' (MacDonald 1957, 35).

Unsurprisingly, there has been much discussion contrasting broadcasting as produced for consumers and as directed towards encouraging a sense of citizenship. This has especially been of concern, following the move, since the 1980s towards an increased commercial presence and deregulation (Marquand 2004). Philip Elliot noted as early as 1982 that the 'location of power' was shifting 'from the nation state to the international economic system' and that this was reflected in a 'shift away from seeing people in society as political citizens of nation states towards involving them as consumption units in a corporate world' (Elliot 1982, 243-244). This shift would likely lead to limits as to what people would be able to achieve. Political citizens participate in the world around them, including the worlds of other people. Processes of deliberation as well as participation require some sort of engagement – even at its most basic level of placing a cross in a box every few years – there needs to be some meaningful acknowledgement of the difference between this box or that. Consumption requires no real participation – simply a private selection and transaction. There may be some differentiation between products, but the differences are essentially only connected to the pertinent features *to me*. I may care about the political dimensions of the product, but I do not have to. Where I have strong political feelings about my consumption – for instance, on its manufacturing processes, labour relations, or the behaviours of the product's brand – my decisions will have no significant impacts unless I step beyond my status as a consumer and start to behave as a political citizen. For this reason, I am unable to achieve much as a 'consumption unit'.

Elliot continues, focusing more closely on the impact on media and information, that while it is tempting to see the new media landscape – much still over the horizon for Elliot at this point – as representing a quantum shift and like opening up the Alexandrian library to the population (a view he attributes to Daniel Bell), he argues that there are undesirable aspects. Where information is seen as something to be consumed by 'consumers', it is viewed as a commodity and will be produced, made available and publicised where it is financially viable to do so – it will likely neglect its value to citizens. Its value will be determined by its commercial status. Furthermore, media, as a consumer product, will promote its role and consumption as private – something consumed in one's own space – 'concentrating activities within the home', increasing social isolation as well as passivity by depriving people the opportunity to speak back.

Finally, where media is a commodity to be consumed it brings it under the control of economic interests, who will promote content on the basis of potential returns and not according to other values. Elliot gives the example of US newspaper magnate, William Randolph Hearst, who contrasted 'interesting' news with 'merely important' thereby prioritising human interest stories over those dealing with institutions engaged in decision-making (*ibid.,* 244-246). Where media and information is a commodity, its value to citizens is liable to be neglected. To fully function as a citizen in society, a person needs access to a wide range of information – current affairs and varying perspectives regarding them, but also details as to the rights and duties they possess, and information that will aid them in developing their cognitive and critical capacities.

Michael Tracey was especially concerned about the impact of applying consumer sovereignty principles to public service broadcasting. Giving evidence to the BFI/BAFTA Commission of Inquiry into the Future of the BBC, he spoke of the American experience, worried that the trends there were at risk of being repeated in the UK. He spoke of 'systematic ideological assaults on the very notion of public culture, of community and of social cohesion… the rise of notion of self as against the collective… the rise of technologies which feed that notion of the self and the individualism that underpins it' (BFI 1993, 30). While he does not name either consumers or citizens, it is plain that that is the trend that concerns him. In 2003, even though he was less pessimistic than he had been (see Tracey 1998) about the fate of public service broadcasting, Tracey still concluded that there was an 'inherent contradiction between the public service mission and commercial imperatives' (Padovani & Tracey 2003, 140). Justin Lewis echoes this, noting that public service broadcasting is tied to the notion of citizenship, strengthening it 'by educating people about public affairs and by increasing people's access to a range of cultural forms'. By contrast, the consumer's means of expression is 'limited', found only in the marketplace – human activity is found solely in 'individual acts of consumption' (Hilmes 2003, 128).

From these roots, public service broadcasting has been built on ideas of this type. It has consistently returned to ideals of universality – that broadcasting ought to be available to, reflect and speak to all communities (Broadcasting Research Unit 1982); that it ought to function as an 'integrator of democracy' (Reith 149, 136) and take responsibility for the health of the political process and the quality of public discourse' (Blumler 1992a, 13); it should recognise a special relationship to the nation, national identity and community; it should not hesitate to reflect 'the quarrel of this society with itself' (Hoggart 1993, 66)– to provide space for national and cultural disputes; it should ensure 'political and social literacy' (Tracey 1998, 30). In short, that public service broadcasting should reflect values and concerns that we would immediately associate with citizenship.

However, having drawn the link between citizenship and public service broadcasting, we must sound a further note of caution. Hilmes writes:

> "The concept of 'citizen' implies a "nation" whose public exists in a relationship of legal rights and status and whose appropriate activities are defined in terms of his relationship with the state. The "consumer", on the other hand, is a stateless, rootless subject whose activities consist of acts of selection and purchase in a market where products of all nations jostle for shelf space. Further, by precepts of liberal democratic thinking, all citizens are equal; citizenship is a homogeneous, unified status that ideally makes no distinctions between citizens, who remain undifferentiated and "equal under the law." Consumption, on the other hand, is usually conceptualized as a highly individualizing activity, by which markets identify and capitalize on – even create, if they can – distinctions of class, gender, age, region, taste, etc. in an address that thrives on differentiation and segmentation. So, conceptually, the public as citizen is masculine, homogeneous, and national; the public as consumer is feminine, differentiated, and hybrid" (Hilmes 2004, 3).

This set of alternating contrasts reminds us of the absurdity of trying to fix these two concepts in a simple opposition to one another – the consumer is a citizen, and, in a modern capitalist economy, a citizen is a consumer. It is valuable, following this, to keep reconceptualising these terms in order to burn away the sharpness of this dichotomy. Nonetheless, the division is helpful to reflect upon. There is a value in considering the differences between them, much as there is value in considering the differences between public bodies, like the BBC, and private, commercial, companies, like Netflix. But at the same time, there is value in considering where they overlap, what commonalities there might be. For example, both Netflix and the BBC operate in the same media environment and the same political context. There are technological, cultural, economic, social factors and political factors that impact them both and that they both need to respond to. With this in mind, it makes sense for the BBC to consider deploying technological tools that have demonstrated a public appetite for them when used by other, commercial, operators. All the same, we must be mindful that there do remain significant differences, especially in their respective sets of responsibilities.

This contrast and overlap of citizen and consumer is increasingly echoed in the way that the BBC is seen in government. From the Peacock Committee[16] onwards there has been a shift in balance between public service broadcasting seeing users predominantly through the lens of citizenship, and adding, or even favouring the lens of the consumer[17]. Certainly, the thrust of the

[16] Over the history of the BBC, there have been a series of Parliamentary Committees that have considered key issues that have surrounded broadcasting in general or the BBC in particular. Several of these will be noted in an overview of the BBC in Annex 3. The most prominent of these are Pilkington (1961), Annan (1977) and Peacock (1986) – all will be touched upon in the course of this study. Peacock, its official title – A Report of the Committee on Financing the BBC (HMSO 1986), was primarily concerned with how the BBC was to be financed and was largely expected to recommend phasing out the licence fee. It did not (Crisell 1997, 214).

[17] This would be an appropriate opportunity to note that discussions regarding citizens and consumers have been emerging in other spheres, not only broadcasting. Dawn Oliver is not alone in cataloguing ways that the debate has appeared alongside questions of public administration and government. Considering ways that the people had possessed oversight over decisions made by government and agencies on their behalf, she observes the shift that occurred from being ‘subjects’ to ‘citizens’ to

committee was unambiguous in promoting the 'move towards a sophisticated market system based on consumer sovereignty' (H.M.SO. 1986, 133 [Para. 592]). However, the Committee was clear in its maintenance of the public service principle as laid out by the Broadcasting Research Unit (see section 4.2.) – its conclusion was not to be a watering down of these, just an expression of the conviction that they can be gained by reliance of market forces alone (McQuail 1992, 58). In essence, this expressed the belief that through consumers expressing their preferences and their willingness to pay for their fulfilment, the market would meet that demand.

The relationship and distinction between consumers and citizens was brought more definitively out into the open with the discussions that revolved around the wording of the Communications Act 2003, specifically in outlining the duties of OFCOM, which the Act was concerned with establishing. Livingston and Lunt (2007) offer a lively commentary on the various disputes that went on as to whether it should refer to consumers, citizens or both. In the end, clause 3 of the Act states:

> (1) It shall be the principal duty of OFCOM, in carrying out their functions—
>
> (a) to further the interests of citizens in relation to communications matters; and
>
> (b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.

Clarifying these two terms, Ed Richards, a senior partner at Ofcom before becoming CEO, stated that the consumer interest centres on wants and individual choice. 'By contrast, the

'consumers'. Citizenship arose most plainly following the Second World War, highlighting and bringing to the fore the capacity of individuals to participate in the life of the community (Oliver 2010, 244). However, the focus shifted from citizen to consumer (if not always in name), in that it became increasingly the consumer as individual that was in play – she writes: 'the consumers of services, individually and not collectively, have 'oversight' of services in that they are entitled to information about their operation, to expect a certain stated level of service, and to complain if that standard is not met' (*ibid*, 245) (See also Gabriels & Lang 2015, 200-203).

citizen interest centres on the long-term societal benefits of broadcasting in relation to democracy, culture, identity, and learning, all traditionally delivered through public service broadcasting and providing a continued justification for market intervention. Hence (Livingston & Lunt 2007, 6-7):

Consumer interest	**Citizen interest**
Wants	Needs
Individual	Society
Private benefits	Public benefits
Language of choice	Language of rights
Short-term focus	Long-term focus'

What this debate illustrates is that the citizenship focus, as well as the interests of the consumer, of UK public service broadcasters, especially the BBC, are embedded not simply in a set of principles but in law. The BBC's Charter outlines the BBC's Mission, which was first of all 'to act in the public interest'. The Public Purposes, 'to provide impartial news and information' with a view to encourage people to 'engage fully with major local, regional, national, United Kingdom and global issues and participate in the democratic process', 'to support learning', to 'raise awareness of the different cultures and alternative viewpoints', amongst many other things, are all orientated firmly around citizenship themes far more than consumer related concerns. These themes are repeated and reinforced in the BBC's Agreement with Government (HMSO 2016a) and in the Operating License (OFCOM 2023a) under which the BBC operates at all. And it is through these statutory instruments that the BBC is held accountable – since 2017 being directly responsible to Ofcom, with fixed determined consequences if the BBC fails to meet their obligations (OFCOM 2022).

To reiterate, our study is to address the question 'How can the BBC deliver data-driven content personalisation responsibly?' In this introduction, we have sought to explain why this question is important. Primarily, the BBC possesses a different set of responsibilities to other organisations on account of being a public body, established by Parliament, with responsibilities to operate in the public interest. The BBC is looking to deploy recommender systems to deliver data-driven content personalisation. However, this technology is typically deployed by private, commercial bodies with far more limited sets of responsibilities – as such, these bodies can, within the general limits of the law, deploy recommenders any way they want. Our interest is in marking out how the BBC can deploy data-driven content personalisation in a way that accords with its responsibilities, asking what this would (or should) look like, how it would (or could) be different. As an example, we might ask, how might the BBC's recommenders, fashioned as they are in the light of the BBCs responsibilities, look and operate differently to those employed by, say, Netflix?

In the shadow of these questions, we have a second approach – subsidiary to the first, but at times it will be more illuminative – how to ensure that the BBCs recommenders reflect the public service commitment to viewing its users as citizens, and not just consumers. We have noted that there is an (imperfect) distinction that can be drawn between citizens and consumers, and that recommender systems lean towards promoting consumer sovereignty over citizenship. To again use Netflix as an example, at the bottom line, it is perfectly fine if Netflix's recommendation systems simply satisfy the wants of its users – it need do no more. However, the BBCs responsibilities extend beyond this, it must also promote a variety of values that we would strongly associate with citizenship – social cohesion, political engagement, respect for diversity and so on – so the BBC's recommenders must also be in line with these responsibilities. So again we need to ask, what would these look like, how would they operate?

3. Why should we care that personalised media content recommendations are deployed responsibly?

We noted in the introduction that to appreciate the value of our research question of 'how the BBC can utilise personalised media content recommendations responsibly', we needed to deal with two side questions. The first, dealt with in chapter two, was concerned with why we should care specifically about the BBC deploying recommender systems. We answered that the BBC had a particular set of duties that were more demanding than other organisations, and that the nature of recommender systems in typical commercial environments tended to promote values associated with consumerism, and that these stood in contrast with the BBC's promoting of values associated with citizenship.

This second side-question addresses recommender systems more squarely and asks why we should care about deploying them responsibly. To answer we first must lay out the basic details of recommender systems, consider what they are and how they work. This includes appreciating the technology that functions as the 'engine' of recommenders, machine learning. This brief background helps us partially because it sets the scene, but also because some of the issues that we will discuss in relation to recommenders stem from machine learning. We will then outline the two primary models of recommender systems, content-based and collaborative filtering. These are the most common models and also the approached taken by the BBC in the development of their own recommender systems. In this we will consider a little how they might be applied. This first half is primarily descriptive and not really presenting an answer to the question – it does not tell us why we should care that recommenders are deployed responsibly. It simply tells us what they are. Nonetheless, this section is vital to the

study as a whole – we cannot answer our research question without it, and when we turn, in chapter seven, to the BBC's actual deployment of recommenders, it will be essential that we have a basic understanding of how they work.

In the second half of the chapter, we respond more directly to the question. We begin to address concerns that have emerged in literature drawn from law, philosophy, data science and media theory. These concerns are grouped into three broader areas: social concerns, especially those dealing with issues of diversity; individual concerns that deal with the impacts that recommenders may have on a person's autonomy, privacy, data protection; and concerns that have been raised regarding news production specifically. These concerns, in the first instance, offer a clear answer to our immediate question: we should care because there are issues that emerge from recommender systems that we should be concerned about. They also offer a starting point in thinking about the responsibilities that attend to the BBC. They raise alarm in the deployment of recommenders for private and commercial organisations, but this does not always equate to a responsibility that they are obligated to meet. They might choose to, but there is no requirement. The BBC, on the other hand, has a particular set of responsibilities that extends further. It is the nation's public service broadcaster, and that also affords a particular set of responsibilities. To be colloquial, it is not unreasonable to hold 'Auntie' to a higher standard than Netflix.

3.1. What are Recommender Systems?

A comprehensive definition of recommender systems[18] is offered by Adomavicius & Tuzhilin (2005, 734f.):

[18] In what is regarded as a seminal account, Resnick and Varian offered an earlier definition of recommender systems thus:

> 'In a typical recommender system people provide recommendations as inputs which the system then aggregates and directs to appropriate recipients. In some cases the primary transformation

> ‘More formally, the recommendation problem can be formulated as follows: Let *C* be the set of all users and let *S* be the set of all possible items that can be recommended, such as books, movies or restaurants. The space *S* of possible items can be very large, ranging in hundreds of thousands or even millions of items in some applications, such as recommending books or CDs. Similarly, the user space can also be very large – millions in some cases. Let *u* be a utility function that measures the usefulness of item *s* to a user *c*, i.e., $u: C \times S \rightarrow R$, where *R* is a totally ordered set (e.g. non-negative integers or real numbers within a certain range). Then, for each user $c \in C$, we want to choose item $s' \in S$ that maximises the user’s utility.’[19]

Unpacking this definition, we know that in any system environment (for instance, Amazon or Netflix) there will be a large number of users (represented collectively by *C*) and a large number of items (represented collectively by *S*) that these users will likely be interested in. Each of these items (represented individually as *s’* – one such given item) will have a utility function (*u*) – a degree to which it is or is not useful to any given user (*c*). When viewed as a whole, all of these items, in respects to all of these users, will imply (→) a possible ranking in terms of their usefulness. The role of recommender systems, then, is to calculate which item will be of the most utility for any given user.

A simpler, similarly highly regarded account is offered by Burke: ‘any system that produces individualised recommendations as output or has the effect of guiding the user in a

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> is in the aggregation; in others the system’s value lies in its ability to make good matches between the recommenders and those seeking recommendations.’ (Resnick & Varian 1997, 56)

The emphasis in this definition is based on the collaborative dimension between those that have given recommendations and those that are looking for them. This is unsurprising since the primary model in place at the time of writing was that of *collaborative filtering* (which we will discuss in more detail below), even though Resnick & Varian were unimpressed by the term, since both the collaborative and the filtering elements might not be explicit in such a system (*ibid.*). Recommender systems have developed somewhat since this formulation and the definitions have followed suit.

[19] The symbol ∈ indicates being the member of a set. So, in the case above, $c \in C$ indicates a user from within the set of all users.

personalised way to interesting or useful objects in a large space of possible options.' (Burke 2002, 331)

How this is done varies considerably from system to system. Some place the user first, some the item; how utility is calculated will differ, as will the measures by which it is determined. Recommender systems are now commonplace, even if we are not looking for them, in many different fields. Similarly, recommendations may generated by a variety of means, not all are algorithmic. However, the most prominent methods are, including those deployed by the BBC; these utilise machine learning techniques.

3.1.1. What is Machine Learning?

Machine learning is a subset of artificial intelligence (AI)[20]. It can be defined generally as 'the technology that allows systems to learn directly from examples and experience in the form of data' (Royal Society 2017, 19). These systems are attractive because they have proven incredibly powerful as well as useful in a wide range of areas. In essence, simplifying broadly, machine learning is a computation technique, using software to identify patterns in data, in such a way that it can make some sort of prediction about new data and improve in its performance in doing so over time (Murphy 2012, 1). For example, looking ahead, systems can process the data generated by the use of a media platform such as the BBC's iPlayer, identify

[20] This has led to points of confusion, where machine learning processes are referred to as artificial intelligence as though the former were identical with the latter. Artificial Intelligence (AI) is an umbrella term that encompasses a wide range of objectives, which are reflected in an even wider range of activities. Russell & Norvig (2010) propose that AI has been conceived as aiming towards one of four broad ends; to think humanly, to act humanly, to think rationally or to act rationally (Russell & Norvig 2010, 2). Given these broad and somewhat open ends, it is unsurprising that the methods and applications that fall within them encompass a great number of technologies and applications; they list a number of key examples – robotic vehicles, speech recognition, autonomous planning and scheduling, game playing, spam fighting, machine translation (*ibid.,* 28-29). For our purposes, we can summarise that AI includes both machine learning methods and knowledge representation.

patterns, and form predications as to what a specific user might want to watch, and generate recommendations.

A more detailed definition, often considered classic, is Mitchell's (Mitchell 1997, 2):

> A computer program is said to learn from experience E with respect to some class of tasks T and performance measure P if its performance at tasks in T, as measured by P, improves with experience E.

To unpack this a little. We have a computer program that is directed towards some objective – to do some thing (T). To train it to meet that objective, we will have it process a series of data (E_1)[21]. To assess whether the program has met this objective adequately we establish some measure of success (P). Assuming that the data was all accurate and relevant and that the programming was appropriate to the objective, it would be fair to draw the further assumption that it would meet a fair measure of success. This is all fine, and we might consider it a success, but we could still not describe it as learning. Assuming that the program was been set up with this in mind, the program will start to learn as it continues to process further data that it encounters; the data that continues to be fed to it, as well as data as to the success it has generated thus far (E_2) – sometimes called feedback. As the program accesses more data – the original data (E_1) as well as new data (E_2) – it will become more effective at achieving its objective (T), which will be shown by the performance measure (P). It short, the program learns to improve its performance as it experiences more and more data.

[21] To clarify Mitchell's breakdown a little further, I have split experience (E) into two components, E_1 and E_2; E_1 indicating training data – data given before the program begins operating. A learning system does not necessarily need E_1 – for some types of programs it might be impossible or difficult to introduce training data – and so it might do with E_2 only – E_2 being data that the system is exposed to during operation. In terms of the operation of a learning system, the primary significant differences at this point, is that with E_1 the system might have a faster start, as well as maybe being directed towards a particular approach to the task. Mitchell notes that the selection of training data can have 'significant impact' (*ibid.,* 5).

Mitchell offers a series of examples. One of these notes a computer that learns checkers (*ibid.,* 3). The task (T) is to play the game. The performance measure (P) is the number of games won. The training experience (E_1) is a record of previous matches, which would be added to with games played whether against itself or other opponents (E_2). Hopefully, the more matches played, the better the computer will become at playing checkers[22].

[22] A further, also very well documented, example of machine learning, can be seen in the development of machine translation, which has been an ongoing project in computing for obvious reasons. Huge numbers of hours can be spent translating texts from one language to another and doing so is vital to ensure that the greater number possible can access the greatest number of texts. This is desirable in many contexts: there would be much value in being able to reliably access all sorts of texts written in other languages, but given the global nature of the internet, being able to seamlessly translate some or all of a website goes a long way to ensuring its universality. Google's machine translation has come incredibly close to achieving that end. It has also been extended to translation on the fly, image translation and vocal translation, although we will not discuss these here.

Machine translation dates back to the 1950s and the work of IBM, which took a model of matching word-pairs – *chat* = *cat* and so on. Given the complexities of language and its use, this model floundered and was ultimately abandoned (Mayer-Schonberger & Cukier 2013, 37). IBM tried another approach beginning in the 1990s using a system they called *CANDIDE*[22], which attempted French-English translation. Instead of word pairs, the system used statistical probability analysis (Berger *et al*. 1994, 157) in what has been described as a 'corpus-based system' (Hutchins 1995, 6). The system compared the French and English editions of the Canadian Hansard records; beginning with a vocabulary of 70,000 words expanding up to 280,000 and ultimately including a further 100 million words from the Wall Street Journal (DellaPietra & DellaPietra 1994, 457). In essence, instead of mapping each word against another or attributing sets of rules to words or phrases, the system, with huge data sets of pre-established translations, calculated the most probable correlate to the term at stake.

In 2006, Google announced that they were entering the machine translation project. Google described it's workings as: "we feed the computer with billions of words of text, both monolingual text in the target language, and aligned text consisting of examples of human translations between the languages. We then apply statistical learning techniques to build a translation model" (Och 2006). In headline it is using the same sort of statistical approach that CANDIDE employed; the primary difference was that Google widened the net of available data from millions of words to billions of pages – they trawled the whole of the internet. Any examples of translations, good or bad were included – while much of that information was 'messy' (Mayer-Schonberger & Cukier 2013, 38), the sheer bulk of data resulted in far more reliable outcomes. In 2016, Google began to employ deep learning neural networks[22] to its machine translation, reducing error rate performance by 60% (Castelvecchi 2016). Linguist Peter Constantine commenting on the ongoing limitations of Google's machine translation, especially in cases such as Voltaire's poetry, notes that it is perhaps "closer to being able to translate a literary text than a professional literary translator like myself would like to admit" (Constantine 2019, 473). Interesting he adds as a postscript that one of the difficulties that the neural networks faced in his initial analysis had been improved upon by the time he was submitting the paper, fourteen days later – so matters continue to evolve and quickly (*ibid.,* 477).

In summation, then, returning to Mitchell's definition of machine learning, we can plainly see machine translation as an example. The task (T) is to translate from one language to another. The performance

These programs are comprised of algorithms, which are basically lists of mathematical instructions, a recipe of sorts. The nature of these algorithms, the way they are used, the way they are set up, the order they placed in, will determine the nature of the system. Again, Mitchell offers some examples; if the system is simply to look for similar cases in the data (E_1 and/or E_2), then a nearest neighbour algorithm would be used.

For better or worse, machine learning has changed, and continues to change, the world. The applications of machine learning have spread into virtually every area of life and have made some outstanding progress and improvements.

Having considered what machine learning is, I want to draw out some primary characteristics of the technology. We need not be too concerned with discussing these features, but to simply point to them.

(a). Probability – Perhaps the most distinctive characteristic of machine learning is that it is pointing towards future data – it is predictive. Pedro Domingo states that the fundamental goal of machine learning is to generalise beyond the examples in the training set (Domingo 2012, 80). Mireille Hildebrandt puts it as the goal is to 'uncover patterns that do not merely fit the training data, but also fit future data (Hildebrandt 2019, 99). Because of this characteristic, we can consider machine learning technologies to be inductive, offering probabilistic connections between some present hypothesis or phenomena and the data thus far gathered. They are probabilistic insofar as the connection is defeasible (Bergadano 2000, 197)

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measure is for it to provide a translation judged as satisfactory for the purpose by the user, which will be reinforced by user feedback. The experience (E) is initially the billions and trillions of pages on the internet (E_1) and is followed by the ongoing input of translations by users and their feedback (E_2). If the machine is configured correctly, with increased experience (E_1 & E_2) it should continue to achieve task T by performance measure P. Given that Google translate now well over 100 languages using neural networks suggests that it is doing that (Google 2021). (See also De Vries et al, 2018)

(b). Correlation (Not Causation) – One striking and problematic characteristic of machine learning is that while the outputs may appear to offer accounts of causation – *x* occurs, *y* follows, allowing the suggestion that *x* causes *y* – it does not. What machine learning does is offer predictions based on correlation. Machine learning locates patterns within the data, and highlights correlations, or dependencies, within that data.

(c). Data – Machine learning has become as powerful as it has for a number of reasons relating to the capabilities of both software and hardware, specifically the gathering, recording, storing, processing and applications of data. The net result of these factors has been a tremendous growth in the quantity of data over the past few decades[23]. This development has been labelled 'big data' which, as a phrase, is consistently associated with machine learning and algorithmic processing. Mayer-Schonberger & Cukier (2013) suggest that 'big data is all about seeing and understanding the relations within and among pieces of information that, until very recently, we struggled to fully grasp… to let the data speak… and [make] predictions' ((*ibid.,* 19, 11)[24].

[23] Rizzatti (2016) describes the scale of this change, noting that we are on the verge of running out of available prefixes for describing the amount of data humans are producing and have produced. Data is measured in bits (1 bit = a single piece of data, a 1 or 0) and 8 bits make a byte. A kilobyte is 1,000 bytes, a megabyte is 1 million, and so on. The world's data has grown from 1 zettabyte (ZB) (10^{21} bytes) in 2010 to a forecast 59 ZB in 2020 and 124 ZB in 2024 (Holst 2021). The trend of growth shows no sign of abating. Of this, less than 10% is structured data, which is data that is pre-established in a clear, defined structure, such as you find in a database; the rest, text, emails, pictures, photographs, video, audio and so on is considered unstructured.

[24] The question of what is done with the data sits alongside a potentially more troubling one: where does the data come from? Zuboff (2015) describes the various ways that data is being extracted (Zuboff 2015, 78f.):

1. Most straightforwardly the data is being drawn from 'computer-mediated economic transactions' as well as 'computer-mediated institutional and trans-institutional systems'
2. 'Data from billions of sensors embedded in a widening range of objects, bodies and places' that form the infrastructure of the 'internet of everything'
3. Corporate and governmental databases (banks, credit-rating agencies, health care operations, etc.)
4. Private and public surveillance cameras (e.g. Google Street View)
5. Individual acts of self-expression and exploration (internet searches, Facebook posts, blogs, etc.)

This extraction of data, most of which occurs without our clear say-so, becomes the substance, the product of an increasing number of massive industries, Google being perhaps the most obvious. Google

(d). Scaled up and in real time – Yeung describes how the widespread use of machine learning algorithms is employed to facilitate mass personalisation services. She describes the process (Yeung 2018, 258f.):

> "these techniques can operate continuously and automatically, updating their operation via feedback loops which enable algorithms to improve their own performance, they have become exceptionally popular and powerful vehicles for accurately sifting, sorting and scoring individuals across a population in ways that retailers and marketers in a pre-networked digital age could barely have imagined."

One of the points that Yeung highlights is how these technologies can be 'continually and automatically reconfigured' (Yeung 2018, 260)[25]. Hildebrandt picks this up. She neatly summarises the idea as 'computing systems with agent characteristics, notably systems capable of context dependent, non-deterministic and adaptive behaviour' (Hildebrandt 2015, 55). She describes how they may predict and anticipate, on the basis of the data they gather, our decisions and be able to adapt accordingly. These features are already taking shape in seemingly trivial ways, e.g., Google's 'auto complete' (*ibid.*, 61).

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has built an empire on this data, including what is termed 'data exhaust' – 'the trail of clicks that internet users leave behind' (Cukier 2010). It is this data, and what is done with it, that constitutes the primary business of many internet companies. Zuboff describes this process as 'surveillance capitalism' (Zuboff 2015, 81).

[25] Kephart & Chess (2003) proposed the term 'autonomic'. Sitting between the terms 'automatic', which indicates a mechanism that is capable of guiding itself through a series of instructions, and 'autonomous', a quality we attribute to persons who are able to determine for themselves their values and own priorities, 'autonomic' points towards the self-adjusting facilities we see in complex living organisms. A physical organism like a human being has several autonomic capacities, such as regulation of our breathing, temperature, blood-pressure, and so on. Our bodies are able to continually adjust our systems in response to changing conditions. For instance, if we are too hot, we sweat, get thirsty; too cold, we shiver, get goosebumps. We are not consciously deciding these changes, our bodies make these *decisions* for us. An autonomic computer system, therefore, is one that is able to continually adapt and refine itself to its needs. Kephart & Chess point to the capacity for self-configuration, self-optimisation, self-protection and so on.

3.1.2. Models of recommender systems

Having noted that machine learning provides the engine for the recommendations that are generated, we turn to recommender systems. My primary focus will be to examine the two most popular models of recommender system – collaborative filtering and content-based methods – these are also the models that the BBC uses.

The primary goal of commercial recommender systems is to increase 'product sales' (Aggarwal 2016, 3) but of course, what 'sales' are depends on the context. The better a system is at drawing people's attention to things that they wanted or did not even know that they want, the better it is at generating sales. A secondary basic principle is that it is in the service of personalisation: 'The recommendations it produces are meant to optimise the experience of one user, not to represent group consensus for all' (Burke, Felfernig & Göker 2011, 14).

This relationship between people and what they may want has been summarised into four operational and technical goals for systems (Aggarwal 2016, 3-4):

- *Relevance* – the item must be relevant to their needs, it must have relevant utility
- *Novelty* – ideally, the item must be something that the user does not already know about
- *Serendipity* – this is related to novelty: it is ideal if the item is, in some way, unexpected – it has the quality of a 'lucky discovery'. Aggarwal offers the example of someone who regularly eats at Indian restaurants being recommended a further Indian restaurant. While quite likely welcome, it lacks serendipity. If that person was recommended an Ethiopian restaurant, then this might be a welcome surprise. Serendipity also has the additional commercial bonus of opening potentially new sales opportunities.
- *Increasing recommendation diversity* – Often recommender systems offer a list of 'top-*k* items'. If these items are all too similar, then perhaps the user will not like or be

interested in any of them. Where there is increasing diversity, it increases the likelihood of the user having a recommendation that interests them.

A. Collaborative Filtering

Collaborative filtering 'is probably the most familiar, most widely implemented and most mature of the technologies' (Burke 2002, 332). In simple terms, recommendations are based upon similarity patterns between users – if *A* and *B* have similar purchase histories, and *A* positively rates book *y*, recommend it to *B*.

Jannach et. al. write:

> 'Pure collaborative approaches take a matrix of given user-item ratings as the only input and typically produce the following types of output: (a) a (numerical) prediction indicating to what degree the current user will like or dislike a certain item; and, (b) a list of *n*-recommended items. Such a top-*N* list should, of course, not contain items that the current user has already bought' (Jannach et. al. 2011, 13)

In other words, the collaborative model will construct a view of the ratings that our user, but also every user, has made regarding the various items within the given space (we will note what counts as a rating below). The system will look for patterns in the data, looking for commonalities between ratings issued by users or the ratings received by item – typically referred to as user-based or item-based nearest neighbour approaches. If the former, the system will produce a series of recommendations (predictions) of further items based on similar ratings issued by other users, or items with a similar ratings profile to the one the user is

considering. A further thing worth noting: this sort of system is entirely content-neutral[26] – it is wholly indifferent to who is receiving recommendations or what is being recommended[27].

Ratings – Explicit and Implicit

As we have indicated, at the heart of the collaborative filtering method are ratings. However, there are different expectations as to what counts as a rating. For instance, a distinction has been drawn between explicit and implicit ratings (*ibid.,* 22). Explicit ratings are those given self-consciously by a user. Typically a five or seven point Likert scale ranking, utilising a linear series of ratings from 'strongly dislike' (or equivalent), through 'mildly', 'no opinion', 'mildly like', to 'strongly like'. Other models include Cosley et al.'s ten-point scale (2003) or Goldberg et. al. (2001) with a wider continuous scale (-10 to +10) have been proposed. Regardless of the degree of granularity being discussed, the rating is explicit and is self-consciously delivered by the user as a degree of approval or disapproval of the item in view.

The problem with explicit ratings of this sort is that it is an additional burden upon the user, and in the desire for a frictionless interaction between the user and system, it offers a sticking point.

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[26] Hybrid approaches, which combine methods of different types may incorporate that sort of content-based element to the process.

[27] To illustrate further, if we imagine a person (Liz) is looking to buy a book. She has made a series of purchases from this website before, so we have some data about her in the form of ratings of these items. We also have the data from other users of this website – some of these will correlate to the ratings that Liz has inputted, but most will relate to different items. Analysis of this data ought to offer a predication of how much utility Liz will consider a given item to have, but it should also be able to provide a list of items that Liz would consider as having the most utility of all the items available within the system. A point to note is that this method is entirely neutral in regards to the items in consideration or facts about Liz or other users (Jannach et al. 2011*,* 3)

To add detail to *nearest neighbour recommendations*, consider this description from Jannach et al.:

> "The main idea is simply as follows: given a ratings database and the ID of the current (active) user as an input, identify other users (sometimes referred to as 'peer users' or 'nearest neighbours') that had similar preferences to those of active users in the past. Then, for every product *p* that the active user has not yet seen, a prediction is computed based on the ratings for *p* made by the peer users. The underlying assumptions of such methods are that (a) if users had similar tastes in the past, they will have similar tastes in the future and (b) user preferences remain stable and consistent over time." *(ibid*., 13-14)

For this reason, many people might neglect to give a rating or write a review[28]. Rating items only really makes sense when the item has been used (watched, consumed, etc.), at which point the user is looking for the next thing. Consequently, the number of ratings within a system is often far lower than the degree of usage. Secondly, given the frictional nature of ratings in many systems and how this is a disincentive for many users, those that do rate items may well have additional reasons for doing so. It is well documented that an item's rating is typically determined by early adopters (Li & Hitt, 2008). Also, those most likely to leave a rating – a self-selecting cohort – will be either those who have bought or otherwise invested in the item, pre-disposing them to predominantly favourable ratings, or those who hold some sort of bias regarding the item, and thus leave strongly favourable or unfavourable ratings (Hu, Pavlou & Zhang, 2017). Finally, the addition of allegations of false ratings and reviews[29], lead to the conclusion that ratings as given do not always provide a sound foundation for what is popular or even what individual users like or dislike.

The alternative to explicit ratings is implicit ratings. They might be defined as 'techniques that gather information about a customer's shopping behaviours and represent preferences as ratings without the customer's intervention' (Lee, Cho & Kim, 2010, 2143). Put another way, they are examples of behaviour taken by the individual in relation to the system that might be taken to indicate that they have positive feelings towards a given item. Most straightforwardly an implicit positive rating might be given if the individual chooses/buys/watches/etc. the item in view. If you bought it, it at least suggests that you had *that* much positive regard for it. Other

[28] Ofcom report that while 77% of adult users of the internet read online reviews and use them to guide their decisions, only 40% ever write them. (Ofcom 2017, 107). It is also worth noting that reviews and ratings are not the same. Reviews may be defined as 'a consumer's opinion on and/or experience of a product, service or business' (Competition & Marketing Authority, 2015). Ratings, on the other hand, are capable of being representative numerically and are far more straightforwardly capable of being employed as part of the data requirements of a recommender system.

[29] https://www.which.co.uk/news/tag/fake-reviews/

behaviours that might be utilised in that way include browsing behaviour – what other pages had been visited, the time spent on a page (Jannach 2011, 23)[30].

Implicit ratings also come with problems in their interpretation. Just because the behaviour has been generated, it does not follow that it reflects approval or disapproval. A purchase may be disappointing. The referral of an item might be negative unless we can also be sure of the context of what is being discussed. The length of time on a particular webpage might mean no more than that the person was distracted whilst browsing (Jannach 2011, 23; Nichols 1998, 34).

Issues with Collaborative Filtering Approaches

We have already considered a couple of potential issues for collaborative filtering; collating data for large numbers of items and users can be very processing heavy, potentially slowing down response times, and that the ratings, on which these systems depend, are open to various difficulties. However, there are one or two other issues I want to briskly note:

[30] Nichols offers a lengthier list (Nichols 1998, 32; See also Aggarwal 2016, 10-13):

Action	***Notes***
Purchase (Price)	*Buys item*
Assess	*Evaluates or recommends*
Repeated use (number)	*e.g. Multiple check out stamps*
Save / Print	*Saves document to personal storage*
Deletes an item	*Deletes an item*
Refer	*Cites or otherwise refers to item*
Reply (time)	*Replies to item*
Mark	*Add to a 'marked' or an 'interesting' list*
Examine / Read (time)	*Looks at whole item*
Consider (time)	*Looks at abstract*
Glimpse	*Sees title / surrogate in list*
Associate	*Returns in search but never glimpses*
Query	*Association of terms from queries*

- *Data sparsity* – It is very likely that the data that is held within a system with be inconsistent in its spread – some areas will be better served than others. Where there is less data, there is less confidence in the recommendations that are generated.
- *The cold-start problem* – When a system is well established it will have a large number of users with developed profiles and the items within the system will, ideally, have a solid body of ratings. However, a system in the process of set up will have neither of these and will struggle to form recommendations.

B. Content-Based Recommenders

Whereas collaborative recommendations are content neutral in that they need contain no information about neither the items being recommended nor the users they are being recommended to beyond the ratings given, content-based recommendations take, as their starting point, the content of items. As we will outline, what that content comprises of, and how it is gathered, remains open for different interpretations. However, one immediate benefit of this approach is that it does not require a large body of users to operate – this approach could feasibly work with only one user (Jannach 2011, 51).

There are two primary approaches to content-based recommenders: those that make use of meta-information and those that concentrate on the content itself. Meta-information concerns information about the content, as opposed to the content itself[31]. This former approach will develop a database of such meta-information. For instance:

[31] Clarifying the difference between content and meta-content some more, using the example of a film; the content is the film, the story, the events, the dialogue, etc. The director or the length, as examples, do not constitute the content of the film. If we considering other examples of items and the respective meta-information that it might hold, we might think about:

- Images – *size, format, resolution*

Table 3.1.2.B.: Content Database

Title	Director	Primary Genre	Length	Actors	Keywords[32]
A Quiet Place	John Krasinski	Horror	90m	John Krasinski, Emily Blunt	Survival, Post Apocalypse, *Silence*, Creature
Wall-E	Andrew Stanton	Animation	98m	Ben Burtt, Elissa Knight	Robot, Post Apocalypse, Survival, Unconventional Romance, *Bra*
I Am Legend	Francis Lawrence	Horror	101m	Will Smith	Post Apocalypse, Survival, Isolation, *Atheist*
Constantine	Francis Lawrence	Horror	121m	Keanu Reeves, Rachel Weisz	Hell, Demon, Catholicism, *Anti-hero*
Bird Box	Susanne Bier	Horror	124m	Sandra Bullock, Sarah Paulson	Survival, Post Apocalypse, Creature, *Interracial Romance*

In Table 3.1.2.B., we see a snapshot of a database with a series of features. We could have included more categories: writer(s), studio, aggregated ratings, secondary genres, moods, and so on. If we have a database of items, where the content is catalogued according to various features, and if we have a user – Liz – and we know her preferences, then we will be able to make reasonable predictions as to what she might like in the future. If, for instance, we know that Liz enjoyed *A Quiet Place* and *I am Legend*, then it is very likely that she would also give *Bird Box* a higher rating as it shares many of the same characteristics; it is a horror movie with post-apocalyptic themes, and so on.

- Text – *length, formatting, file type*
- Objects – *size, weight, materials*

[32] Selected from www.imdb.com

The second approach draws from the content itself – identifying features of the content that can be compared with other examples. This was one of the primary models that was employed primary in examining text documents in the earlier days of the internet. The document itself would be inspected for relevant or recurrent keywords, these in turn could be used to search for and identify other documents that were similar (Jannach 2011, 54). The method likely to be implemented is Term Frequency – Inverse Document Frequency (TF-IDF). In this 'term frequency' relates to how often a certain term appears in a document. 'Inverse document frequency', on the other hand, aims to reduce the weight of keywords that appear often in all documents – such commonly occurring words such as 'the', 'of' or 'and'[33].

A similar process is found in the *Music Genome Project* employed by Pandora (with similar methods being utilised by Spotify, TIDAL, amongst others). Tim Westergren described the method employed as follows (Castelluccio 2006, 57f.):

> "We set out to capture the essence of music at the most fundamental level. We ended up assembling literally hundreds of musical attributes or 'genes' into a very large Music Genome. Taken together these genes capture the unique and musical identity of a song – everything from melody, harmony, and rhythm to instrumentation, orchestration, arrangement, lyrics, and, of course, the rich world of singing and harmony."

The purpose of this project has been employed in Pandora which was an early online radio platform that made use of algorithmic programming to respond, ever more closely, to the preferences of its listeners. By having such a detailed database of songs at play, once a person begins to select music that reflects their own tastes, the system kicks in and is able to produce and, with user feedback, ever more refine its recommendations. Again, this approach is drawing

[33] In this effort, other measures might be 'stemming' – replacing variants of the same word by a common stem, size cutoff – focus only on *n* most informative words

from the data directly. Once a user has begun to identify the content that they are interested in, the system is capable of forming recommendations and predicting what else the user might like to see.

Issues in content-based recommenders

One set of issues that emerge where content rather than metadata is used in generating recommendations is that examining the content of items can be complex and time and processing intensive. Processing text documents presents one set of challenges, but the sorts of media that would be personalised by the BBC are various. There are text media, but also audio and visual, and the formatting and contexts of these media are liable to be variable. It took the Music Genome Project six years to analyse 400,000 songs (Castelluccio 2006, 58) – BBC Radio produces 222,946 hours of content in a year (BBC Annual Report 2018-2019), and television services produce many more, as well as text material for the family of BBC webpages. Analysing all this content to the degree that they would provide reliable recommendations would be an imposing requirement.

A related problem to this is who determines which features of the content are to be highlighted and how. The choices of what features are selected and how they are marked will reflect the viewpoint (prejudices) of the person given that task. The is especially the case when the features, or the language used to identify them, contain any subjective dimension. Using the example of music above; if, for instance, we described a piece as 'funky' how might that be interpreted? Is there a strict definition? Similarly, if we consider Table 3 again, I have included some of the keywords highlighted by users of The Internet Movie Database. I included some in italics: what exactly are these keywords intended to signify? What were the people who selected these keywords looking to highlight, and how might they be read?

A further issue is that even where we have items with many similarities they still provide no guarantee of appropriate recommendations. Table 3 above has four films that share the keyword 'post-apocalyptic', three with 'survival', two with 'romance'. The two films with the most crossover in respect to keywords are *A Quiet Place* and *Wall-E*. One is a very tense horror film, featuring murderous extra-terrestrial beings. The other is a cute tale of lonesome robot who is faced with saving humanity from their own carelessness.

As we have noted, content-based systems do not rely at all upon other users, it only requires ratings from the single user in question. While this offers the advantage of being better placed to respond to the *cold start* problem – we do not require a large body of ratings to get going, it has the disadvantage of needing prior ratings from that user. In other words, it has a cold *user* problem. If the user in question has not given any ratings, all the data regarding the items will offer little help. Furthermore, by relying solely upon the ratings of the present user and disregarding the ratings of others, it reduces the opportunity for diversity and novelty (Aggawal 2016, 140). As Burke explains:

> "The great power of the collaborative approach relative to content-based ones is its cross-genre or 'outside the box' recommendations ability. It may be that listeners who enjoy free jazz also enjoy avant-garde classical music, but a content-based recommender trained on the preferences of a free jazz aficionado would not be able to suggest items in the classical realm since none of the features (performers, instruments, repertoire) associated with items in the different categories would be shared. Only by looking outside the preferences of the individual can such suggestions be made." (Burke 2002, 337)

Burke adds that both collaborative and content-based approaches suffer from the 'portfolio effect'. We would not want a recommender to suggest items that have already been chosen – we want new content. However, the tighter the correlation between the user's preferences and

the features of the items, the greater the likelihood that the recommender will propose familiar items. News reports are particularly vulnerable to this since new reports are often very similar to reports we have encountered before. For this reason some (The DailyLearner system – Billsus & Pazzani 2000) have proposed upper-bounds of similarity, such that anything too similar is screened out (Burke 2002, 337).

C. Hybrid Recommenders

We have noted that there are potential shortfalls to the primary models of recommenders[34]. One solution to this is to produce hybrid recommenders. All sorts of combinations can be

[34] Other models of recommender systems include utility, demographic and knowledge-based models. Utility-based recommenders make suggestions based on a computation of the utility of each object for the user' (Burke 2002, 334). In other words, the system seeks to predict the likely usefulness of the user, or the degree that it will fulfil some purpose for them. As Burke goes on to note, one of the problems here is determining what counts as usefulness for the individual – there is no reason to expect that it will have the same degree or dimension of usefulness for another person, or even the same individual in different circumstances. As such, these systems rely upon the input of the user to clarify these factors and may also employ more tightly honed feedback systems to the same end. For this reason, they are unlikely to 'learn' in the way that other systems are designed to. On the upside, however, these systems possess certain distinct benefits; there are no ramp up problems, and they can factor in some non-product related attributes, such as vendor reliability or product availability (*ibid.*)

Demographic recommenders 'categorise the user based on personal attributes and make recommendations based on demographic classes' (*ibid.,* 333). These classes are drawn from typical demographic markers; age, location, sex, gender, class, etc., and are augmented by ratings made by individuals. Kulwich (1997) describes the breadth of demographic information drawn upon:

"We have been using a demographic system called PRIZM from Claritas Corporation. The PRIZM system divides the population of the United States into 62 demographic clusters according to their purchasing history, lifestyle characteristics, and survey responses (Weiss 1988). The system is based on surveys of more than 40,000 people as well as U.S. census data, magazine subscriptions, catalogue purchases, and the like. The demographic database contains information on more than 600 variables, each of which refers to a specific lifestyle characteristic, purchase, or activity." (Krulwich 1997, 38).

To add detail to this, consider Figure 3. There are two initial sources of input; demographic information divided into clusters, and data regarding the specific user that we are seeking to provide recommendations for – this will typically be provided by the individual themselves, but it could be drawn from observing their behaviour. As we saw above, the clusters are likely to drawn quite narrowly, reflecting a wide number of variables. These two sources of input will be drawn together so as to identify a user with one or a number of clusters. Once this match is achieved, recommendations can be formed. If a user

matches with a number of clusters, commonalities between those clusters will be focused on. If this is still insufficient to form a recommendation, further information might be sought.

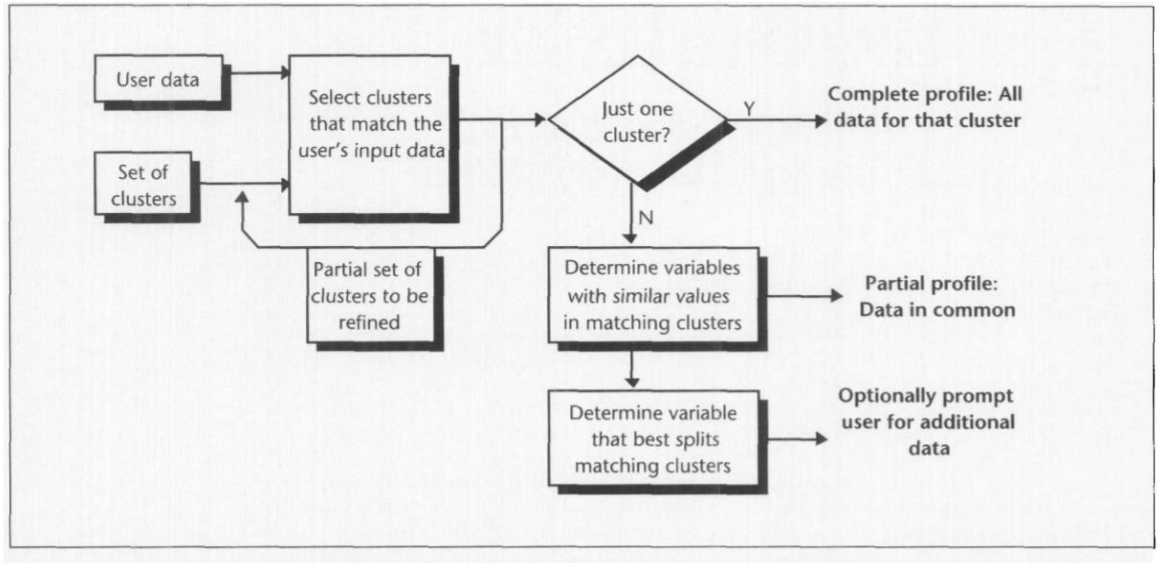

Figure 3: The Basic Process of Demographic Generalisation (Krulwich 1997, 38)

Generally speaking, demographic techniques 'do not usually provide the best results on a stand-alone basis, they add significantly to the power of other recommender systems as a component of hybrid' models (Aggarwal 2016, 19).

Many consider utility and demographic recommenders to be a subset of knowledge-based recommenders. Jannach reminds us of one key weakness of collaborative filtering and content-based models, that there are many purchases or choices that we make that are very occasional, such as houses or cars. As such it is difficult to build up a solid body of data about a user's preferences based on ratings. The key then is to extract from the user as much information as possible as to what they would prefer – their minimum-maximum spend, for instance, colour preferences or location (Jannach 2011, 81). Knowledge-based systems will often begin with a detailed acquisition of information which can then be used to deliver recommendations. This information might be demographic, but it might be explicitly concentrated on the user's sense of utility. Figure 4 offers an example of this drawn from a restaurant recommendation service in Chicago. Before any recommendations are given, the system asks a series of questions – what kind of cuisine, what sort of budget, etc. – before a recommendation is generated.

considered, but Burke considers that the most typical types employ collaborative filtering in conjunction with some other method so as to avoid the ramp up problem (Burke 2002, 339).

Jannach proposes that there are two primary models of hybridized system (Jannach 2011, 129):

- ***Parallelized*** – In this approach, the hybrid system takes the input and then processes it simultaneously using two (or more) methods. These methods produce outputs that are weighted, and blended, and then issued as a recommendation.

- ***Pipelined*** – Rather than the two recommender systems working at the same time, here they work sequentially – the input being fed into one system one and then the output of that as well as the initial input being fed into a second (and any subsequent) system[35].

Figure 4: Example of knowledge-based recommender system – Entry point for the Entrée system (Burke (2000)

[35] Burke, on the other hand, develops a taxonomy with seven types of hybrid (Burke 2002, 339-344).

3.2. Concerns with recommender systems

The deployment of recommender systems has led to a number of concerns being raised and discussed. The concerns have been applied broadly, not only media organisations or even public service broadcasting, but to their use in commercial companies, social media, search engines and elsewhere. I want to briefly survey these worries, and so doing I will group them according to social concerns, concerns that apply to individuals and thirdly, concerns that apply to journalism and news personalisation. While these concerns are not specific to the BBC or public service broadcasting, I will keep an eye in that direction.

When we come to discuss the responsibilities of the BBC directly in Chapter Four, these concerns will come back into view. Consequently, I will leave the bulk of the discussion for that chapter. Here I am setting a scene and building a case, drawing our attention to the fact that if we are to account for how the BBC can deploy recommenders responsibly, we must look to see how it rises to meet these challenges and concerns.

3.2.1. Social concerns

A key concern that is commonly levelled at commercial recommender systems, especially those that offer media content recommendations is that they are liable to produce filter bubbles and echo chambers. At the heart of the filter bubble is the recognition that recommender systems, automated and fuelled by vast reservoirs of data, about ourselves, people like us, and the content at stake, are generating personalised recommendations that deliver to us more of what we like. If this content concerns information about the world – politics and current affairs – we will be delivered recommendations that reflect the convictions that we already have. The result is that we will become trapped in a bubble, a bubble defined by the filters shaped by the algorithms of the recommender system, a filter bubble, being recommended more and more of

what we already know and believe. Pariser writes that 'left to our own devices, personalisation filters serve up a kind of invisible auto-propaganda, indoctrinating us with our own ideas, amplifying our desire for things that are familiar and leaving us oblivious to the dangers lurking in the dark territory of the unknown' (Pariser 2011, 15; see also Thi Nguyen 2018).

A closely related concept is the echo chamber. Here, through a natural tendency toward 'homophily', people chose to surround themselves with others who share similar worldviews and convictions. Coupled with the automated filters, noted above, as well as powerful social media environments that are increasingly a primary source of information, people have new opportunities to limit their exposure to those who see the world the same way as them. By ensconcing themselves in these echo chambers, they become more prone to extremism, hyper-partisanship, disinformation and factual error (Sunstein 2017: 17-19). Aside from the impact it has on their own well-being, this has consequences for wider society. Only engaging with like-minded people can increase polarisation, and people with minority views in echo chambers fall under the illusion that their views are more widely held than they are (Munson & Resnick 2010, 1). We typically think that it is better that an electorate is well-informed. For example, being exposed to information in mass media that runs counter to their existing attitudes leads to people better able to provide reasons for their convictions as well as understanding others' motivations (Price, Cappella & Nir, 2002).

However, in recent years, doubt has been cast on these concepts, suggesting that the fears they project fail to be borne out by closer examination of media personalisation. Axel Bruns (2019) has led the charge of those arguing that the concept of 'filter bubbles' lacks empirical support. He begins by suggesting that Pariser never gave it a clear and stable definition but by the same token, he also argues that the application of the concept has shifted from its initial attention to search results to the output of social media feeds. This has led to its becoming blurred with sister-concept 'echo chambers' (Bruns 2019, 3). This is compounded, says Bruns, by this latter

concept never being adequately defined either. This failure to offer clear and consistent definitions has frustrated empirical analysis.

He points to a number of studies that have looked for evidence (Nechushtai & Lewis, 2019; Haim et al., 2018; Krafft et al., 2019), and finds a 'severe lack of convincing evidence' (*ibid.*). Krafft et al., for instance, examined results in German Google searches and found that 'sources today are diverse and capable of pervading other news and information of algorithmically generated and hardened filter bubbles' (2019, 3). Amongst the contrary evidence that Bruns points to is the fact that people who may vary in key political identities, and so be represented in contrasting political online groups, they share many other, non-political interests. Consequently, while there may be a unity of tone within these groups, individuals still become exposed to news and content that conflicts with their own. In addition, he points to evidence that social media environments are 'inherently heterogeneous'. The majority of people in social media environments are not there for political interactions – they tend to endure rather than enjoy them. In this light, encounters the average social media user have with political content are 'unplanned', 'serendipitous' (*ibid.,* 5-6).

A key feature of the anxiety regarding filter bubbles and echo chambers is the degree to which individuals cease to be exposed to diverse content and ideas. This would in turn become manifested by social polarisation and fragmentation of the public sphere, a situation where 'the shared public sphere becomes increasingly disintegrated and breaks into smaller issue publics' (Möller & Helberger 2018, 4). However, like Bruns, a survey of empirical studies dating from 2012 to the time of writing, show that there was little evidence sort of effects on the scale pointed to by Pariser and Sunstein (*ibid.*, 23). There were some potential effects that they noted – some of them, in fact, were positive. For people who typically avoided news content, algorithmic recommender systems might increase incidental exposure of news content (*ibid.*, 19). Negative consequences were detected too, albeit smaller, more localised: smaller groups

already sceptical of mainstream media who also depend on news media content algorithmically recommended were liable to 'construct alternative news realities and create echo chambers clear of challenging viewpoints' (*ibid.*).

So at the heart of this is the principle of diversity, which filter bubbles and echo chambers are at risk of smothering. Bodó et al. (2019) identify a series of premises of the argument for filter bubbles, as presented by Pariser:

- Individual users do not value diversity
- Algorithmic agents do not recognise and serve complex user profiles
- The sole goal of algorithms is to identify narrow personal interests
- Personalisation is already ubiquitous, and soon there will be only personalised media, and personalised will be invisible to people

The hidden premise here is that diversity is a good (*ibid.*, 208) and desirable to many (Munson & Resnick 2010, 6f.). As a good, it can compete with other goods, for instance, reducing complexities or personal autonomy. And it is also instrumental at producing other outcomes, often regarded as positive in a democracy; tolerance, self-reflection, social and cultural inclusion (Bodó et al. 2019, 208) and the authors refer to and agree with the ECHR that there can be no democracy without diversity or pluralism (Refah Partisi and Others vs. Turkey 2003, paras. 87-89). This primacy of diversity has been echoed by OFCOM:

> "Plurality matters because it makes an important contribution to a well-functioning democratic society through informed citizens and preventing too much influence over the political process (OFCOM 2012, 4)."[36]

[36] See also discussion of media plurality in Sections 5.3.1.

Furthermore, there is evidence that an audience that is exposed to diverse media content is likely to have an improved openness to receiving more politically diverse ideas (van der Wurff 2011, 333, 336).

One problem that we have regarding diversity is that we have no clear, agreed practical definition as to how it might be promoted algorithmically (Kunaver & Požrl 2017; Helberger 2018, 160). While on face value we might propose that diversity is the opposite of similarity, i.e. dissimilarity (Bradley & Smyth 2001), but there is much more to highlight than that. More challenging models have been considered. Wu et al. (2019) state that we can see diversity in recommender systems at either individual or aggregate level. The former points to the diversity of recommendations given to a single user; the latter as an aggregate across all users. Despite appearances high levels of individual diversity does not indicate high levels of aggregate diversity. Furthermore, each model is directed at different problems – individual diversity is intended to maximise novelty for a user, whereas aggregate diversity is intended to maximise the recommendation of long-tail items. The same authors highlight different approaches to how we might consider diversity by contrast to dissimilarity – by seeking to examine the explicit and implicit features of items. Explicit features, typically recognised in content-based recommender models, refers to the features of the content being recommended, be it price, run time, or genre. Implicit features may be either observed or learnt. The former points to behaviour that can be observed – views, clicks, purchases, the latter more latent behaviours.

There are other approaches to considering diversity. We can talk of structural diversity (Helberger 2018, 162) that considers the 'vitality and diversity of overall media landscape' – the platforms that are available and the terms by which people are able to engage with them. By this we are not concerned with the producers of content but rather those that control the environment by which people encounter it, especially given the largest and most powerful

platforms – social media – and their capacity for algorithmically impacting the means by which people engage. Helberger says:

> "From this it follows that the real problem with structural diversity is not so much ownership over a particular resource. The true challenge from platforms for structural diversity lies *in the relationship* between those making media content and those 'owning users', their data, and the tools and technologies to distribute media and arrest (or even monopolise) users' attention. This also means that concerns about structural diversity are no longer easily solved by counting the numbers of sources and diversity of content in media markets, nor will the traditional measures to protect and promote structural diversity be particularly useful in protecting and promoting structural diversity in a platform context. Instead, the key to dealing with platform power and structural diversity is balance negotiation power, protect media independence, and ensure a fair, level playing field (*ibid.,* 163)."

Trielli and Diakopoulos (2019) offer a typology that distinguished between source diversity, content diversity and exposure diversity. Source diversity considers the range of different media sources that is presented or are accessible to a user, whereas content diversity points to the different viewpoints or perspectives included in those sources. Exposure diversity calculates the diversity of the content that actually consumed. These models correspond fairly well to the suggestions of van der Wurff of diversity as *sent* and diversity as *received* (2011, 329) – source and content diversities correspond to the first, and exposure diversity to the second.

This brisk summary is intended to illustrate the difficulty of mobilising diversity as a metric in recommender systems[37].

[37] One line of argument that has been advanced is that questions of diversity, especially in view of its being an essential support for democracy, is that different models of democracy call out for different conceptions of diversity. We will discuss and outline these varying conceptions below in chapter 5, but if

3.2.2. Individual concerns

As much as we can identify ways in which recommender systems might impact society at large, scholars have raised concerns that they might impact the lives of individual people.

It is well documented that machine learning processes, which underpin the processing power of recommender systems, are not the clean, objective math machines they are sometimes billed as (Yeung 2021)[38]. Algorithms are grounded in mathematical calculations and so are sometimes credited as avoiding the various prejudices and biases that humans are vulnerable to. Indeed, one of the common cited rationales for automated decision making is to replace subjective human decision with models less vulnerable (Friedler et al. 2016)

Springer et al. (2017) note in the first place that bias can be used in misleading ways in machine learning. Bias might be used to indicate that the system has certain characteristics, and these might be deliberate design decisions. The point being is that bias is not always considered problematic in this sense – it is often entirely deliberate and a required element of the functioning of a particular system. However, Bias can be used in the more straightforward sense in that it might reflect or perpetuate unfair discrimination (Springer et al. 2017, 450). They

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we are considering promoting diversity and developing algorithmic recommender systems with diversity in mind, we must also ask what sort of democracy it is that we are seeking to support (Möller et al. 2018, 964). Liberal, participatory or deliberative models of democracy, as the most commonly discussed, have different sets of needs.

[38] Yeung builds from Evgeny Morozov's examination of technological solutionism, *To Save Everything, Click Here* (2013), who considered what historian Ken Alder had called the 'technocratic pose' (2010, 293). This pose is one that holds the development of technology as fundamentally neutral and indifferent to any political application. Fundamentally, then, it is blameless should any harm or negative outcomes occur. Morozov has in mind Twitter (now called 'X') and its trending service. Algorithmically, it picks up on topics that are appearing in increasingly larger numbers of tweets and flags these up as trending. However, Twitter adopts this technocratic pose if and when things trend that lead to bad outcomes or, as is the very nature of this service, exacerbate a situation that is already leading to bad outcomes by drawing attention to it. Twitter claims that Trends is using technology to simply reflect events – the technology is blameless. Morozov observes that Twitter is 'an engine, not a camera' (Morozov 2013, 150); it is not only reflecting events but also driving them.

propose three ways that hidden or unacceptable bias may occur in such a way that might be unlawful or leading to discriminatory outcomes (*ibid.,* 451):

- Bias in input data
- Computational biases that may result from algorithmic and team decisions[39]
- Outcome biases, for example for specific user groups (gender, age) or for specific domains (e.g. having really good recommendations in one genre over another)

The first and second might occur before the system is begun, whereas the third requires some domain knowledge and a predictive model (*ibid.*). Mittelstadt et al. notes that 'an algorithm's design and functionality reflects the values of its designer and intended uses, if only to the extent that a particular design is preferred as the best or most efficient option' (2016, 7). A

[39] Diakopoulos (2016) highlights a series of means by which algorithmic decision making might lead to forms of bias. He highlights:

- ***Prioritization*** – a key way in which we cope with information overload is to prioritize some over others. Machine learning has been used extensively in this regard. At the heart of prioritization, however, is discrimination (Diakopoulos 2016, 57), and thus will have an impact on the visibility or recognition that some things have over others. In some fields this might be inconsequential, but it might also impact 'everything from the quality of schools and hospitals, to the riskiness of illegal immigrants on watch lists' (*ibid.,*).

- ***Classification*** – classifying some items as being a member of one class or of possessing this or that characteristic. Diakopoulos notes that once things have been classified, this facilitates decisions 'downstream' (*ibid.*). Since data processing in general and algorithmic recommenders systems in particular are liable show bias (Bozdag, 2013), classification potentially reflects this, and thus potentially perpetuates the injustices inherent.

- ***Association*** – creating and identifying relationships between entities, whether this is indicating a state of 'related to' or 'similar to' (Diakopoulos 2016, 58). Collaborative filtering, using correlations between ratings, makes significant use of association.

- ***Filtering*** – 'filtering decisions involve including or excluding information according to various rules or criteria' (*ibid.*). The difficulty at play is who determines the rules and criteria and what foreseen or unforeseen consequences might follow from that. One of the worries that Diakolpoulos highlights is that of inadvertent censorship or exclusion. He suggests that it would not be all that difficult to unintentionally violate, for example, the moral imperatives presented by the Association for Computing Machinery (ACM), such as 'not to discriminate' (ACM 2015, Principle 1.4).

dataset and the way it is used represents a series of choices; what is left in, what is left out. An algorithm is also a series of choices; what moves does it make, what ends does it have. These choices will reflect the concerns of the designer, including their biases, good or bad.

The third type, outcome biases, occur as the system gets under way and is directed at how the output is interpreted and used. Hildebrandt writes:

> What interests me here is that the findings of data-mining operations require interpretation… We must learn to 'read' them, and before all, we must learn to accept that they cannot be without bias, thus requiring a new critical stance capable of providing alternative interpretation… (Hildebrandt 2011, 376f.)

Hildebrandt draws our attention to the fact that there are so many facets to the system that require interpretation. Data is gathered and correlations are identified, patterns recognised – the data, the correlations, the patterns, do not necessarily mean what it might appear that they mean, especially where systems are multi-layered – data being processed again and again before an output is finally generated. Systems cannot be relied upon to offer reliable interpretations – as Hildebrandt says, we need to learn to read them, we need humans to intercept and ensure that the data, the correlations and outputs are understood correctly (and

even then…). Illegal or unacceptable biases can creep in[40] and these can perpetuate inequalities[41].

Recommender systems, like all machine learning processes, are dependent upon data, so it is unremarkable to note that bias in input data is a risk in the context of personalised media content recommendations just as it is in other fields. The outputs of a biased recommender may at first glance be trivial compared with loan applications, job availability or judicial sentencing (Datta et al., 2015; O'Neil 2016, e.g. 4-10; see also n. 35), but when we upscale the question to our democratic environment, such a system may be impartial, or prone to personalising recommendations that would cloud a person or a segment's perception or understanding of a set of issues. Furthermore, recommender systems are vulnerable to specific modes of bias. For instance, Krishnan et al. (2014) describe 'social influence bias' in recommender systems – 'the tendency to conform to the perceived 'norm' of a community'. These can be particularly prevalent where the individual is required to input a rating – 'social influence bias can yield ratings that are closer to the average, less diverse, and less representative … in turn affect[ing] … the effectiveness of the recommender system' (Krishnan

[40] There are many examples of unfair bias we can point to in machine learning processes. We do not need to document them here; this has been accomplished well enough elsewhere. Gordon & Nyholm (2021, 2c.) offer a list of striking cases (sources given in text):

- Gender bias in hiring
- Racial bias, in that certain racial groups are offered only particular types of jobs
- Racial bias in decisions on the creditworthiness of loan applicants
- Racial bias in decisions whether to release prisoners on parole
- Racial bias in predicting criminal activities in urban areas
- Sexual bias when identifying a person's sexual orientation
- Racial bias in facial recognition systems that prefer lighter skin colours
- Racial and social bias in using the geographic location of person's residence as a proxy for ethnicity or socioeconomic status

[41] Inequalities can occur in different ways than simply through bias. Jurkiewicz, for instance, highlights that these technologies are being used to replace jobs that are currently being performed by humans. It is estimated that 'by 2025, roughly 25-35% of today's jobs will be replaced by AI tools developed from big data' (Jurkiewicz 2018, S49). She continues that the impact of this shift will disproportionately affect lower social economic groups, 'deepening the divide between economic classes'.

et al.2014, 137). This can have more serious ramifications if the norm in question represents a political or social value, and at worst the system could marginalise or fail to the diverse needs of the user base. A similar issue is highlighted by Abdollahpouri et al. (2019) when they discuss 'popularity bias', which describes recommendations as prioritising popular content over the content that might be more appropriate to the person's needs. For instance, the systems they considered consistently downplayed content drawn from the 'long tail' (2019, 1).

Given that these biases can manifest in different ways in recommender systems – they may lead to users having some sets of content promoted, or they may see content demoted, or even not see it at all, the net impacts of these biases are varied. For instance, systems may show bias to individuals in that they may draw the conclusion on the basis of some other correlation of data that the person is not worth pursuing with certain sorts of content (Eskens et al. 2017, 280). While this might not matter too much with some sorts of content – cooking shows, for instance – it takes on far greater significance if the content that is supressed for an individual is news content or current affairs. It is exactly this sort of content that facilitates a person developing an understanding of the world around them, especially the political and cultural questions that are pressing. Considering the right a person has to receive information, which we will discuss at greater length below, it seems that recommender systems and news personalisation runs a real risk reducing a person's capacity for political engagement and participation.

Amongst the issues that have raised in respect to the use of recommender systems, especially in regards media content personalisation, is that it risks having a negative impact on individuals' autonomy and privacy.

Mireille Hildebrandt reminds us that 'technologies regulate our behaviour by making certain behaviours possible and constricting others' (Hildebrandt 2015, 11). Recommender systems are intended, amongst other things, to make life easier. They are capable of sifting through the

wealth of content in a system and highlighting for us the content that we are most likely to be interested in. However, in doing this, they take away part of our choice and reframe it as a narrow selection of recommendations. Our option to choose, to sort and sift all the available possibilities for ourselves is not eradicated but compromised. Much of the time we might not notice, and much of the time the work of recommender systems might be wholly welcome to us – time is limited, content is seemingly infinite – but once they are there and the choices we once had to make are obscured, there are subtle, yet important impacts. And, again as Hildebrandt continued, 'once defaults have settled resistance becomes more difficult' (*ibid.*). Subtly, but decisively, this has the potential to undermine our sense of autonomy and our requirement for privacy[42].

Added to this, there is often a concern that digital data and privacy policies are lacking and do not do enough to inhibit systems from allowing what are fundamentally deceptive practices. Yeung comments that the deployment of 'nudges' through specific framing of choice architecture can count as a mode of deception, even as coercive, undermining the user's autonomy, and that the policies put in place to mitigate this are often insufficient (Yeung 2017, 127, 129). The efforts that are often pursued, notice & consent strategies, where users are ostensibly informed of the actions of the system and provide their consent, are also lacking. The extent to which any of this is adequate to meaningfully assuring consent is subject to a great deal of doubt. The claim, checked by every user multiple times, '*I have read and agree to the terms*', has been referred to as 'the biggest lie on the internet' (Obar 2015, 9; see also Yeung 2017, 125; Paraschakis 2017, 2)[43].

[42] We will turn to examine in much more detail issues of privacy and autonomy in chapter 4, where will consider the right to privacy.

[43] Obar compares Lippmann's scepticism regarding the aspiration of liberal democracy that the voter is a sovereign and omnicompetent citizen as an 'unattainable ideal' to the notion of a digital citizen capable of self-managing their data privacy (2015).

These concerns regarding the gathering of data and the closing in on the individual's own private sphere, where there are liable to be 'legal or similarly significant' effects (GDPR, Art. 22; Vermeulen extents this explicitly to the freedom to form throughs and opinions, Vermeulen 2020, 194). There has been evidence of recommenders in general use manipulating users. For example, recommenders have been known to shift the weightings of items in respect to some users with a way to promoting some content (Paraschakis 2017, 4-5), or to promote some content as 'sponsored' (Yeung 2017, 121). Recommenders are capable of conducting experiments on users in real time without their being made aware. For instance, to offer a notorious example, Facebook conducted a series of A/B tests[44] into how posts promoted certain emotional states without informing users, effectively toying with their emotional states (Paraschakis 2017, 5).

This is problematic as it stands, but this is exacerbated when one considers the asymmetry of information that is at play. Companies employing recommender systems, as well as employing other 'big data' technologies, gather huge amounts of data regarding users. It is not always plain to the user, however, what has been gathered or how or even, given the opacity of 'privacy self-management' models, the presumption that through notice and consent, the user is placed in charge of their privacy, what it will be used for. In simple terms, the data controllers know everything while the user knows only what is placed plainly before them. How the data is stored, used, deployed, managed, governed, and so on, and how this impacts her privacy and

[44] Ros & Runeson (2018, 35) explain A/B Testing. They write:

"The idea of getting continuous feedback from users on the evolution of software is appealing. This is done with controlled experiments, known as A/B testing in the basic case of comparing two variants, A and B, which are the control and test variable in an experiment. By running multiple variants in an experimental setting with real users, and systematically measure the outcome, developers can make evidence-based decisions to guide their software evolution. Especially for service-based software with large user volumes and centralised software upgrades, design decisions can be underpinned by statistically significant analyses, using experiments. Large internet companies started applying this practice a decade ago … [e.g.] Microsoft, Facebook, Google…"

autonomy are largely obscure to the user (Acquisti et al. 2015, 509[45]). Helberger reminds us that 'knowledge is power', so this asymmetry also demonstrates plainly who holds the power in the relationship between user and system. This might mean that companies can better serve us, but it just as well means that they can better manipulate us (Helberger 2016, 192-193).

Finally, Yeung recalls that the model that is employed by and large here is one that promotes seeing and behaving as though the user is a consumer, an economic unit with a limited set of interests. She writes that the 'effect of data-driven mass personalisation techniques … point to deeper misgivings about the cumulative and aggregate effect of these practises may portend for us, both in terms of our moral character as individuals and our collective culture as a moral and political community' (2018, 266). Recommender systems may serve our needs as individuals, giving us what we want, but they trade off this individualisation and in doing so give further traction to social fragmentation and a diminishment of our qualities as citizens and the development of a 'collective character' and our 'social bonds'. Moeller et al. (2016) make a similar point. Moeller et al. consider the effect of news recommenders on a 'common core' of values identified as the 'free market place of ideas', a 'public forum', 'accountability and transparency' to one another, the desirability of 'informed citizens' and 'cohesion and tolerance' (Moeller et al., 2016, 27-29). Each of these only being possible within a social collective and touching on meaningless for the individual alone.

3.2.3. Concerns regarding impacts on news, journalism and public service media

Most of the concerns that we have been considering apply to the workings of recommender systems more broadly and have not been specific to news personalisation or to media recommenders. In this final section, we turn our attention to worries that have attended this

[45] They write: "Individuals rarely have clear knowledge of what information other people, firms, and governments have about them or how that information is used and with what consequences."

sphere directly. But again, the same underlying problem that informs our study is our focus. Recommenders are employed in the content distribution of news agencies and media content in general. For many of these organisations, the priorities in place remain fundamentally commercial. They are businesses and the bottom line is that product must be sold, whether the product is the news or media content, or the time and attention of the consumers as sources of data or recipients of advertising. Consequently, recommenders have priorities of increasing clicks or reach – the BBC, as a public service broadcaster with a distinct set of responsibilities ought probably to look for more.

I will start with a step back to comment briefly on the development one of the primary principles of public service broadcasting: universalism. This was initially a consequence of its technological limitations, as the word broadcasting suggests (Sørensen 2020). From a single point a signal is sent out that can be caught by many receivers. As such it is a one-way information flow and the broadcast was necessarily universal in the sense that everyone who received it heard the same programme. We might have different views as to what was happening here – whether it was elites deciding for the masses (Tracey 1998) or one voice speaking truth (Scannell 1990). Either way, what was at stake was an agenda setting dimension – the broadcaster; along with writers, editors, producers, and so on, set the agenda of what was to be broadcast – they made the choices regarding comment that would be transmitted universally.

The development of technology over time disrupted these conditions. The arrival of new television stations in the 1950s, and independent radio in the 1970s, and then the arrival in the UK of satellite and cable channels in the later 1980s and into the 1990s gradually broke up the audience. No longer was there one voice speaking to many, but several voices carving up the national audience. Despite this, we could still talk somewhat of an agenda setting function. Even though an editor, producer or commissioner might be talking to one segment of the

available audience, they decided what was broadcast – they were still responsible for the points of interest. Universalism shifted from the sense of one voice to all, to a universalism of appeal in that content would need to speak to the whole community, but not necessarily all at the same time. Content should meet the needs of interests and tastes that emerge from different communities and constituencies of the population. The Broadcasting Research Unit talks of 'overlapping constituencies', recognising that all are members of majority groups and minority groups within the broader community of the United Kingdom, and the content produced by a public service broadcaster ought to respond to all of these needs, even if this is spread across different channels and times and, we might add, technologies (Broadcast Research Unit 1985, 3).

However, this shift to a densely populated media landscape was yet further compounded by the arrival of on-demand services, and then subsequently content promoted by recommender systems, further restricting the principle of universalism. Both recommenders and on-demand content look to offer the user an environment where they can determine for themselves what they want and when and, as much as possible, how they want it. In short, users are fashioned as consumers. This changing landscape raises a series of overlapping concerns.

The first has already been touched on, above and in the second chapter, which is that this represents a significant move from public service principles which seeks to identify users more as citizens - people who are participating and making up a political community. Public service broadcasting feeds directly into discussions of democratic engagement and concepts such as the public sphere[46]. Furthermore, there are significant differences between a consumer and a citizen, even if we recognise that the roles often overlap and cannot be separated neatly (Schudson 2007) – the citizen has some sort of status in relation to the political life of his community, whereas a consumer might be described 'as an atomistic individual engaged in

[46] We will discuss this further in chapter four.

market exchanges so as to maximize the satisfaction of his or her preferences' (Bevir & Trentmann 2007, 14). Recommender systems, especially when configured according to the metric of clicks, time spent, and so on, are geared towards the latter. Recommender systems in this way aim to give people what they want, to satisfy their preferences, and do not help to facilitate dimensions of citizenship (Sørenen 2020, 194).

Our second concern is the shift in agency that occurs. Historically, editors and journalists were gatekeepers, they chose what was to be published or broadcast, what counted as news, which stories and voices were heard. Initially, this was a practical necessity – frequencies were limited, as were production capacities. But as such they had the role of agenda-setting. As McCombs and Shaw observe, the knowledge that the average voter accumulates on matters in the run up to an election is shaped disproportionately by the weight given to matters by editors and journalists. They quote Bernard Cohen, who comments that while the media may not tell people what to think so much, they do tell people what to think about (McCombs & Shaw 1972, 177). Editors and journalists would make judgements according to values that were common to journalists – values such as recency, conflict, unexpectedness, relevance, proximity, social impact (Trielli & Diakopoulos, 2019)[47].

An additional development is described by Bruns who notes we are in an era of media proliferation, where people and organisations are able to simply put out their own material[48],

[47] We might distinguish three stages of the journalistic process that contribute to this agenda-setting, gatekeeping dimension: the input stage – concerning the pre-selection of stories, where to direct journalistic resources; the output stage – selecting which stories to print or air; and the response stage – where, if space and resources are available, readers, listeners and viewers can have some reply (Bruns 2014).

[48] While we might comment that removing editors and journalists from their role as gate-keepers offers benefits – there is something undeniably paternalistic about their capacity to make decisions on behalf of their readers, listeners and viewers, the sorts of 'citizen journalism' that has emerged at such a scale since the Millenium is not comparable in all respects to traditional journalistic models (Bruns 2014). While there is much to say in favour of it, and it is also true that traditional journalism has not always lived up to the standards it espouses, citizen journalism is vulnerable to producing content that is fiercely partisan, has weaker access to fact-checking resources as well as authorities as sources to reliable information. In addition, mainstream news media outlets are subject to external scrutiny and the assumption of standards (via OFCOM or the Press Standards Commission).

direct onto the internet, and where users are able to access this material directly, without any need for intervention. Much of the curation of this material occurs in communities, online and offline, and through social media platforms, often in real time. Consequently, a key element of the journalists and editors' role has shifted from 'gate-keeping' to 'gate-watching'. There are simply too many channels to control and at too fast a rate; the emphasis shifts to watching for the emergence of information, rather than controlling it[49].

These developments are exacerbated by the role that recommender systems now often play in the media landscape. In the first instance, as the role of editors and journalists change and the skills that they require change, the skills that they traditionally possessed become side-lined and de-valued. Particularly, the values that editors and journalists applied in the curation of news – such as recency, relevance, importance, unexpectedness, serendipity, conflict, and social impact – struggle to find translating into the algorithmic decision-making processes. While recency finds adequate application in recommenders and relevancy (measured by what people are interested in – what they click on, watch, stick with and so on) can be incorporated, the rest have struggle to be factored in and converted into something that algorithms can utilise (DeVito 2016).

Secondly, as gate-watchers, we see journalists and editors watching the activities of audiences, primarily as a consequence of their appearance on social media platforms. 68% of UK adults report that their primary source of news is from the internet, with almost half (47%) reporting social media and other internet sites as their primary news platform. These figures rise significantly when we consider younger people – 81%-83% of Under-35s consume news primarily online with 71%-67% considering social media their primary source (OFCOM 2023b). In addition, news organisations have increasingly been relying upon algorithmically driven

[49] As such, the response phase noted in n.12, which was so marginal in the gatekeeping model, becomes central, since real time feedback becomes invaluable – which stories are trending, gaining traction, producing responses and so on (ibid.,). In turn, these reactions themselves become news events.

personalisation strategies – 59% of them reported using these technologies to produce recommendations for users (Hansen & Hartley 2021, 2). Consequently, monitoring how audiences respond to news, what they watch, where they watch it, and so on, has become an essential component of traditional news media content providers – what van Dijck et al. refer to as the 'platformisation of news' (2018). Hansen & Hartley describe the process (2021, 4-5):

> "…these technological changes induced changes in gatekeeping mechanisms and editorial decision-making and increased tensions between what the audience wanted to know (represented in metrics) and what the journalists thought they should know.... With algorithmically personalized news, the relation and battle for agency between editors, audiences and news is yet again undergoing transformation, and a possible shift in the news selection process can be detected – playing on the famous phrase by Gans – in that news organizations are moving from deciding what's news to designing what's news."

The word "designing" is chosen deliberately in this study as a way of underlining what is significant in this shift: the delegation of agency to new actors (e.g., algorithms, developers and data) in the newsroom, an algorithmic system that is to be designed and the transformations that occur due to newly acquired negotiation powers. With the implementation of personalization algorithms, previous relational practices of decision-making inside the newsroom are leaving the newsroom to be built into a specific design – an algorithmic system – which is intended to reassemble the social (i.e., what becomes news) in specific ways and to make "the social durable" (Yaneva 2009, 280). It is a durability that is obtained by assembling users and values in the system, for example, by assigning them specific numeric values or grouping the users of certain data. Design processes, therefore, not only become a specific practice in which values are negotiated but also where those same values become finally settled upon in a specific stabilized form.'

In essence, the agency that was once the province of journalists and editors is being taken away and being placed as part of algorithmic processes governed by values driven by consumer led principles. What is news-worthy now is what people want to read, what is going to generate the most traffic. Consequently, what generates the most traffic is what gets prioritised in the newsroom. In other words, the role of editors and journalists as curators and deciders as to what is news is being usurped by algorithmically driven recommenders, which is increasingly setting the news agenda, that editors and journalists now must be attend to[50].

This draws us back our original point and the driving concern of this study. The deployment of recommender systems in personalising media content, including news and current affairs content, in the hands of commercial providers will be driven by priorities that will correspond to their nature – by which I mean, they will operate in the interests of the organisations that are deploying them, ultimately to maximise their place in the market through profits or position. The BBC is a unique organisation, with a distinctive set of responsibilities that are firmly orientated towards its operating in the public interest. As we will examine in chapters four and five, this means that the BBC has the responsibility, amongst other things, to promote universality of access and appeal, pluralism, diversity.

Over the second half of this chapter, we have noted that recommender systems in their wide array of uses raise a number of concerns; they run certain risks of limiting what content people have easy access to, compromising the scope of diverse content, offer a potential for unfair, potentially even illegal bias, undermine people's autonomy, diminish our engagement with the wider society and limit the breadth of news we are exposed to. These are serious and difficult challenges to meet. Commercial bodies, in their deployment of recommender systems, are

[50] If traditional media sources are shifting from being gatekeepers, primarily producing their own content according to their own agenda, towards becoming gate-watchers, curating others' content via recommender systems according to feedback generated on external algorithmically driven platforms, it is a challenge to see how those sources will maintain the same authority, credibility, trust and brand loyalty (Sørensen 2020, 195f.).

burdened by no obligation to meet those challenges beyond the basic letter of the law. However, the BBC's responsibilities, do expect us to meet these challenges. If the BBC is to be responsible in its deployment of recommenders, it must be seen to be able to meet this challenge. In the following chapter, we offer a brief account of the BBC, with a view of accounting for the uniqueness of the Corporation and developing an understanding of its role in UK society. In chapter four that follows, we pick up this sense of the BBC's role to mark out the full scope of its responsibilities, recalling the concerns we have noted, to demonstrate that the BBC has a direct responsibility to address them.

4. The BBC and Public Service Broadcasting

Here we turn properly to the argument we introduced in chapter one. For the purposes of this study, we defined responsibility as a combination of role responsibility and legal responsibility, so to gain a solid understanding of what it would mean for the BBC to deploy recommender systems responsibly, we need to grasp these in relation to the BBC. This chapter, then, is about examining the BBC's role, specifically to the extent that it is the nation's primary public service broadcaster. If we understand the BBC's role and the responsibilities that come with it, we will be a good way towards answering our research question.

We begin with the BBC, to note something of why it is held in the esteem that it is. In Annex 1, we offer a history of the BBC in three parts (split between a history from 1923-1990, and surveys of their adoption of technological developments between 1990 and the present, and their rationale for adopting personalisation from 2013 to the present). We omit it here because, while it is interesting, fascinating even, it does not shed enough light on our immediate question, which is to unpack the role the BBC plays in contemporary UK society.

This question is answered more directly by an examination of the principles and values that have come to embody the concept of public service broadcasting, which, of course, the BBC, from the time of Reith onward, has played a significant role in shaping. Reith fashioned a range of principles and views as to what it would mean to broadcast as a public service. These were embodied in the BBC, and over time, especially following the Pilkington Committee, which drew closer than Reith to codifying these principles, they have been fashioned into an approximate range of values that are regularly held up. I say approximate because there is no official version. Here, using Reith as my starting inspiration, draw from a variety of scholars and organisations that have sought to articulate what public service broadcasting entails. Armed with a sold sense

of public service broadcasting, we have a clear view of the role that the BBC holds in UK society, and in turn, the responsibilities that entails.

A concept regularly invoked in the literature regarding public service broadcasting is Habermas' theory of the public sphere. In sum, the idea theorises a space, neither private nor of the state, where people, using practical reason come to be informed, discuss and deliberate on matters of common importance, and which has frequently been considered in relation to public service broadcasting. The BBC is argued to fulfil some elements of this role in that it is independent – it is neither commercial nor state broadcasting and is a space where matter of collective importance can be discussed and engaged with.

Finally, I will comment the attention aimed at reframing the principles of public service broadcasting towards the demands of the digital economy. This has led to shifting the discussion away from broadcasting and towards public service media, addressing the changing demands and affordances that come from the utilisation of new modes of technology, and suggesting a change in role for the BBC.

4.1. The role of the BBC in UK society

It is worth pushing up to the fore exactly what a remarkable institution the BBC has become over its 100 years of existence[51]. Globally, it is one of the most recognised and trusted brands for news and entertainment (BBC 2021a; Sambrook 2022; Neilson, Shulz & Fletcher 2020), and despite the challenges it faces, it remains a vitally trusted source of information domestically, as during the Covid-19 pandemic (Ofcom 2021b). Beyond that sense of trust, it has become part

[51] Of course, it has made mistakes and has failings, and the BBC is under more pressure than ever before – and pressure is not new to the BBC, it has faced serious opposition since 1922. Recent crises, though, have been significant and have approached the BBC from a number of fronts, sometimes simultaneously – the Saville affair, Martin Bashir's Princess Diana interview, equal pay, endless claims of failing to uphold impartiality, ending free TV-licenses for the over 75s and continuing the threaten to criminalise those who do not pay have all rocked the BBC, whether justifiably so or not. Nonetheless, the point is worth noting – as much as the BBC is remarkable, it is also, as Seaton suggests, an 'imperfect beauty' (Curran & Seaton 2010, 226).

of the fabric of British society. David Hendy, in his recent history, sums up the role of the BBC in the life and psyche of the nation well. It is worth quoting this at some length (Hendy 2022, *xii-xiii*):

> ‘For listeners and viewers at home, the BBC was not just one broadcaster among many: it is *the* national broadcaster, possessing a quasi-mystical place in the national psyche. Public devotion can sometimes reach unnerving levels of intensity. The novelist Sebastian Faulks said of Radio 4 that its ‘humane upper-middle-brow seriousness has done more both to define British society and to hold it together than any political or artistic movement of the last 100 years. … Although not actually a government-run broadcaster, it is a body so clearly aligned with the ‘Nation’ that it often feels like an organ of state, as if it were a creative arm of the civil service. It exists by Royal Charter, and the license fee that funds it is set up by ministers in Parliament. If nuclear war begins, the last voice of authority we will hear before Armageddon arrives is a Radio 4 announcer.
>
> …For decades, our domestic routines – getting up, preparing meals, sitting together as a family, going to bed – have been marked and measured by the passage of our favourite radio and television programmes. The television playwright Dennis Potter recalled the BBC of his childhood days as ‘paternalistic and often stuffily pompous’, presenting itself in an almost priestly role. Yet at a crucial moment in his life it also ‘threw open the “magical casement” on great sources of mindscape at a time when books were hard to come by, and when I had never stepped into a theatre or even a concert hall’. The images and sounds that the BBC has brought into our homes have been the portal to other world, other ideas, other times, ‘the tissue of our dreams, the warp and weft of our memories, the staging posts of our lives’. Its status as a lofty body in close embrace with

the world of high politics has always co-existed with a cradle-to-grave role in our own domestic lives and emotional landscapes'

Hendy draws to mind features of the BBC which are often simply taken for granted, almost as part of the national furniture. The BBC is both formally and informally, the establishment – part of the nation's *terra firma*, as unmistakably part of the British world as the Church of England or the NHS. As such it has provided a reliable dimension of the cultural landscape, that in times of social or political instability has offered a consistency between the old and the new – the Covid-19 pandemic is one clear example, but the very recent death of the late Queen has proven another[52].

Dennis Potter's recollections add further detail, especially when he describes moving from seeing the BBC as distant and stuffy to seeing it as a portal to the imagination. The BBC[53] and the worlds it opened up to us energise us, stimulate us, challenge us and at the same time shape us – both as individuals and as a society and play a key role. When Potter speaks of the 'warp and weft of our memories', he could be speaking of an individual or a community, or a nation. We each carry with us memories drawn from the experience of the BBC, whether it be children's programming, wider entertainment, momentous events captured in the news or current affairs, or simply in associations. But just as much the events that shape our communities and environment and the wider nation are recorded and described for us through the BBC. Again, to refer to the late Queen's recent death – the BBC estimated that around 20

[52] See, as an example, discussion in the Lords marking the BBC's Centenary (https://hansard.parliament.uk/Lords/2022-11-03/debates/F54445D5-FF45-4A70-838F-27B92A9335D1/PublicServiceBroadcastingBBCCentenary?highlight=bbc%20queen#contribution-0F6D1FAA-FF48-4F74-9B68-B5DBAD62E65D)

[53] I do not mean here to neglect the role that the other channels and platforms have played over the years here. I hope it goes without saying that much of the content on ITV and, later on, Channel 4, Five and subsequent satellite, cable and subscription channels can also be inspiring and stimulating. My point, which I hope is plain, is that the BBC occupies a privileged position in the UK's cultural landscape and more often than not it sets the benchmark by which other broadcasters are judged.

million people watched its coverage of the funeral, with over 30 million having watched at least three minutes of the BBCs coverage[54].

My point in all this is to note that we are not simply examining the behaviour of another broadcaster, even one with a rich history and a detailed catalogue of legal and regulatory obligations that it must fulfil – it has those, and we will engage with them; my point is that the BBC is much more that – it is deeply embedded in the character of British society, in our lives and in our self-understanding. The BBC is 'auntie'[55], a 'pillar of the United Kingdom' (Seaton 2021, 92), a familiar, and often valued, feature of British life. Quite apart from these obligations, then, it is right that we consider the role the BBC plays[56].

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[54] https://www.bbc.co.uk/news/entertainment-arts-62966616. This compares with 5.3 million viewers for ITV's coverage.

[55] Briggs notes that the term became common following the second world war (Briggs 1995: IV:195). Initially, it possessed the suggestion of overbearing morality, but it quickly developed into a term of affection. Seaton, on Woman's Hour, agrees, explaining that while the term was initially intended to suggest prudish, fuddy-duddy, or not 'with it', it became affectionate over time. 'Aunty, as a term, beyond biological relationship, could also denote a 'friend of the family'. It was a term of familiarity, or closeness. (Women's Hour, 14th November 2022 – Can be found at https://www.bbc.co.uk/sounds/play/m001f4yv , around 50 minutes in)

[56] A similar set of points is made by another historian of the BBC and commentator, Jean Seaton (Curran & Seaton 2010, 230-231) adds:

> 'The BBC is an engine of the mind. It has become a national treasure and world resource because it has been given the creative freedom and political responsibility to attract audiences, tell the truth and be playful. Even if it sometimes fails to adhere perfectly to its principles, at the very least we can argue that it should try harder. That it is 'ours', it belongs to us all, not its shareholders, is also part of its glory. Indeed, not only has it lasted longer than many media organizations, more significantly, it has constantly changed, yet in doing so has reimagined enduring social and political values and made them sparklingly relevant to shifting history. In doing so it has become a world by-word for reliability. Moreover, it has, over time, got it more right (and worried about getting it right) than most other organizations – and the public understand this. Indeed, the BBC is possibly more famous than Britain, more accepted all over the world, and as vulnerable as it has ever been.
>
> Thus, in shanty suburbs of Addis Ababa and out in Ethiopia's rural villages, where there is a café there is a television which people pay small sums to watch. Standing in the smoky haze of freshly roasting coffee, one journalist recently saw the locals watching the war in Afghanistan on the BBC. In the middle of a refugee camp in the horror of war in Southern Sudan, an anthropologist friend saw a television powered by a generator, Ethiopians enthusiastically engaged in watching an Arsenal game on the BBC. Meanwhile, in America this summer, in Williamsburg in Brooklyn, New York, while sitting in the café with my cappuccino, I realized that two adjacent lap-tops, (each accessorised by an achingly fashionable youth), were checking the news on the BBC

4.2. Public Service Broadcasting

A key defining feature of the BBC is that it is a public service broadcaster. It is not the UK's only public service broadcaster – Channel 4, ITV and Channel 5 all have public service responsibilities, and of course, globally, there are many such broadcasters. Nonetheless, within the UK, the BBC continues to be presented as an archetypal example and any attempt to appreciate our central argument that there are conflicting sets of values and responsibilities between the BBC and the deployment of commercial recommender systems needs to pass through this concept. In this section I will unpack the concept, showing a little of its background, but primarily by expanding on its normative principles. Once I have done this, I will show how they are at odds with the more consumerist values seen in the typical deployments of recommender systems in commercial organisations.

There have been many attempts to summarise these principles of public service broadcasting – all more or less similar, all with their own particularities. A strong argument can be made that the first thoroughgoing attempt to articulate them came from Reith[57]. In his writings, in particular *Broadcasting Over Britain*, written in 1924, but also in the ways that he shaped the BBC, as well as his memoirs, written in 1949, we see a real effort to understand what principles ought to be pursued if one if looking to broadcast in the public interest. While Reith did not do this is a straightforwardly systematic format, to illustrate this suggestion, I will frame this summary around five overlapping principles initially set our and developed by Reith.

First, we note that Reith and his ideas did not appear from out of nowhere. Hendy (2013) observes that there were several conceptual and historical factors that preceded the development, and that the technological arrival of broadcasting offered a concrete opportunity

website. This is simply because the BBC has become one of the world's great objectivity traders. Such assets are very precious, very few in number, and are endangered in any number of ways."

[57] Briggs proposes that the first to present the notion was American broadcaster David Sarnoff (Briggs 1995, I: 54).

for them to be mobilised. In the first instance, says Hendy, public service broadcasting is a direct outcome of the enlightenment (Hendy 2013, 7), with its emphasis on the priority of reason and education and the possibility for people to throwing off their ignorance. All people, if given the opportunity, could begin to make sense of the universe, their place within it, and make better, more rational, choices. Hendy points next to the sudden rise of 'mass culture' (*ibid.,* 13). Towards the later years of the nineteenth century was a modest increase in the conditions of many working-class people that afforded the opportunity and means to engage with mass-produced populist culture. While for some this was a source of anxiety, for others, such as Matthew Arnold, saw this as the opportunity to elevate the masses, to enculturate them (*ibid*., 14).

Much has been made of Reith's dependence on Arnold's ideas. Scannell, for instance, suggests that 'Victorian ideals of service laced with Arnoldian notions of culture suffused all aspects of the BBC's programme service in the thirty years of its monopoly' [1923-1954] (Scannell 1990, 23). Arnold had defined culture as 'the study of perfection' and quotes Bishop Wilson that it is 'to make reason and the will of God prevail' (Arnold 1869, 59f.). Since the whole community (in fact, all humanity) is, he suggests, as one, the pursual of perfection must extend to all – to reach it, the community may not allow one to be isolated and left untouched (*ibid.,* 62). As such culture is profoundly egalitarian. Arnold writes: 'men of culture are the true apostles of equality. The great men of culture are those who have had a passion for diffusing, for making prevail, from carrying from one of society to the other, the best knowledge, the best ideas of their time' (*ibid.*, 79). If the State, and it could only be the State, wishes to avoid anarchy, then it has the duty to promote culture to all. If the task was left to individuals, even those from the more cultured classes, the project will likely be derailed by those individuals' own tastes and prejudices

The final factor that Hendy highlights is found in the events that immediately preceded the advent of widespread broadcasting – namely, the first World War. The horror of those events and

the feeling that something had to change was abroad and many who had suffered where looking for a new order of things. He wrote that 'for all those who despaired at the state of civilisation in the 1920s, there were many others determined to recast the world they had inherited, who refused to give in without a struggle and to accept that humanity was beyond redemption' (Hendy 2022, 34). These were the people that built the BBC; these were the people who began to shape public service broadcasting in Britain.

4.2.1. The responsibility of broadcasting and promoting democracy

Right from the outset, Reith recognised that broadcasting came with a responsibility. He states that 'for good or ill, they [the responsibilities] are ours.' (Reith 1924, 31). Amongst these, Reith seems fully aware of this responsibility as pertaining to the political dimension to broadcasting, both in respect to its potentially acting as a functionary of the state, but also as its operating as a mode of the public sphere[58]. He wrote in his memoirs that broadcasting had the potential 'to

[58] Seaton describes the period of the BBC under Reith's reign as the 'denial of politics' (Curran & Seaton 2010, 103-119). There is some truth to this. Some of it was out of Reith's control – the BBC was not allowed to produce its own news until the Sykes Committee and was forbidden to broadcast matters of political controversy until 1928 (Hendy 2022, 107). In addition, the BBC was required to tread very carefully at times, in relation to especially controversial or troublesome issues – for instance, the General Strike of 1926 – where there were sometimes firm calls that the BBC should be brought under government control. However, some of it was down to Reith's own temperament and sympathies. Seaton reports that Reith's 'despised politicians and disliked party politics'. Furthermore, in his urgency to avoid (further) government interference, Reith tilted towards appeasing the government rather than asserting a political position of his own – Briggs notes that Reith preferred mediation to showdown (Briggs 1995, I: 332). Most pointedly, perhaps, Scannell & Cardiff report that success to the BBC was often more marked by their ability to draw in 'the great and the good' to comment on important matters, than by numbers of listeners (Scannell & Cardiff 1991, xxx). Seaton notes that broadcasting – both before and behind the microphone – was dominated a 'specific, reforming, fraction of the middle class… superior to the aristocracy… acting for the greater good' (Curran & Seaton 2010, 108f.). She recalls similarities to Keynes' belief that 'public affairs should and could be managed by an elite of clever and disinterested public servants' (Skidelsky 1979, 36), an arrangement mirrored in the BBC. So too was the BBC disinterested, impartial, disengaged.

So in one sense, the slogan is true. But that is not to say that the BBC was wholly apolitical. As the text above makes clear, Reith understood that broadcasting afforded people information and familiarity with events and affairs, and that this enabled people to engage with their world more thoroughly, most plainly in the voting booth and in deliberation with their fellow citizens. In addition, through their talks programming and some regional productions, particularly from Manchester under Archie Harding, listeners were exposed to many social issues that had obvious and direct political relevance (Hendy 2022, 127-135).

give democracy for the first time under modern conditions a real chance of operating as living force throughout the extended community.' (Reith 1949, 134f.).

If a person lacked 'fortune's twin keys: leisure and money' (Reith 1924, 16), and most people did (do), they would lack the opportunity to engage directly with the important and vital political, cultural or social moments of their community. Broadcasting, even more than the press, which lacks intimacy and immediacy (Reith 1949, 135), offers this sense of access to those 'moments'. Reith goes on to describes broadcasting as the 'integrator of democracy' – drawing people from different regions, strata, and also institutions and bodies. Broadcasting enables the body politic to operate more effectively. This point of Reith's will be picked up and developed further in the next section.

Hendy notes that in democracy everybody's opinion counts, and there is the assumption that those opinions will be supported by rational reason-giving, they will make sense, play fair. However, opinions are often driven by gut feelings, intuition and people's decisions are often shaped by the loudest, not necessarily the best informed, voices. Public service broadcasting ought to be seen as a corrective in these sorts of cases. As such it makes two demands: that quantity is matched by quality and that content aims towards being impartial (Hendy 2013, 27f.). As we have seen, though, impartiality is difficult, even when one is steadfast in pursuing it. Reith held that only those with a claim to be heard ought to be broadcast; in other words, only those who had an authority on a matter. Fifty years later, (Sir) John Birt (later Director General of the BBC), issued a similar directive that there ought to be more expert-led analysis. The trouble is that if only matters that are judged as significant by a small group of experts are broadcast, then a particular view of the world becomes reinforced (*ibid.,* 30). Attempting to look beyond this is key to the responsibility of the BBC in its presentation of affairs – as Reith says below, perhaps 'its supreme responsibility'. Again, in subsequent sections we will comment on the public service broadcaster's duty to inform and educate, to provide relevant and accurate

information and in doing so will bear 'some responsibility for the health of the political process and the quality of public discourse' (Blumler 1992a, 12).

Ultimately, we must echo one of the insights drawn from the Pilkington Committee, as summarised by Richard Hoggart, that 'broadcasting should not hesitate to reflect 'the quarrel of this society with itself', even though politicians may not like the result' (Hoggart 1993, 66). A key dimension of democracy is concerned with the disagreements that emerge about how we arrange our lives amongst one another, and how we look to avoid the conflicts that might follow. Public service broadcasting has a duty in this to engage with these tensions and offer its viewers and listeners the information needed to make sense and to form their own decisions regarding them.

4.2.2. Fostering national identity and community amidst diversity

In his memoirs, Reith wrote:

> *Even in 1930 it seemed that broadcasting might be the integrating element; that, rightly understood and applied, a national broadcasting service might be the integrator for democracy. No part of its service was wholly distinct from the rest. This singular unity might lead some hasty thinkers to regard it as no more than the technical engine for collecting and distributing the output of many fields of culture, themselves separate. It was more than that. Integration is a process not of gross summation but of ordering and valuation. Broadcasting was not only the collector but the selector of material. Therein lay – and always will lie – its supreme responsibility.* (Reith 1949, 136).

Reith is noting that broadcasting offers a sort of lubricant such that the people that make up society, as well as the institutions and bodies, and the organs of government themselves can move more freely – that people can learn about one another; their common identity and their differences, as well as the people and organisations that hold positions of power and influence.

Reith is driving towards the view that broadcasting has the function of bringing the diverse components of a democratic society together. These components comprised of the voters and the public-figures they may vote for; the different strata of society; the geographic variations; but also the cultural, sociological, technological features within that society that both inform and make possible the potential outcomes of democratic deliberation. Broadcasting is a means of integrating these elements, of bringing them within a single focus. It also recognises that the broadcaster is also integrated into that whole; that as much as the broadcaster influences society, the broadcaster is influenced by society, and makes decisions on the basis of that[59].

In modern treatments, the issues raised here are typically hived off into distinct principles, despite them largely being opposite sides of the same coin: on the one hand, public service broadcasting has a responsibility to foster national identity and the 'we-feeling' (Freedman 2008, 147) that comes from recognising the communal dimensions of national life; on the other, the many diversities within that community need to be recognised and respected. As Tracey says "Any nation is a patchwork of localities and regions, but it is also a nation, heterogeneous and homogenous to a remarkable degree at one and the same time" (Tracey 1998, 29).

The Broadcasting Research Unit[60], set up in part to help define and clarify the principles of public service broadcasting, devotes the first three of its eight principles to different dimensions

[59] A second point can be extracted from this quote, echoing a line from the previous section. Reith observes that what broadcasting does is not purely to bring these diverse elements into view. It also evaluates and orders those things. It, or rather editors, producers, directors, make choices and decisions as to what to highlight and what to leave out or on the side-lines. What is presented as a headline or at prime-time and what is buried at the bottom or presented at a time when most are at work or asleep, or even simply omitted makes all the difference. A broadcaster makes decisions on behalf of their watchers, listeners, readers, every time, and this, when placed in view of democracy, becomes a deep and compelling responsibility – as Reith says: 'its supreme responsibility'.

[60] At the outset of the Pilkington Report, it was commented that public service broadcasting was 'indefinable', and by the Peacock Report of 1986, there was some uncertainty (HMSO 1986, 6 [Para. 30]). One of the submissions to Peacock was from a body of scholars including participants from the Pilkington Report. Perhaps because of the uncertainty as to what public service broadcasting might be, or perhaps because it was perceived as being under attack following the Peacock Committee, the Broadcasting Research Unit was established with Richard Hoggart as Chair and Michael Tracey as Head of Unit. In 1986 they produced a monograph that has often been cited as offering a definitive and

and responses to diversity. Public service broadcasters have a responsibility to ensure geographic universality – that everyone, regardless of location should be able to access the services it provides. Broadcasters also have a responsibility to ensure universality of appeal. The report states: "The central aim here is to provide programmes of wide range and diversity over a reasonable span of time for practically all kinds of taste, for large groupings and small. It recognises that we are all at different times parts of majority and minority groupings, belong to overlapping constituencies of tastes and interests." (Broadcasting Research Unit 1986). Finally, viewed as an extension to the previous principle, 'minorities, especially disadvantaged minorities, should receive particular provision… This principle is focused towards those who for different reasons have neither the purchasing power or political clout to ensure their tastes are met under their own steam. These are minorities not of taste, but of circumstance – 'the disabled, the blind, the deaf, the immigrant, the very old and the very young' (*ibid.,*).

The flip side of universality and diversity is to concentrate on and promote the homogeneity of society, what Reith calls the 'integrating element' and Freeman calls the 'we-feeling' of community and solidarity. A key focus in the responsibility of public service broadcasters is in underlining and promoting the sense of national identity and community, recognising our common realities - cultural as well as political. Hoggart commented that public service broadcasting 'allows a nation to speak to itself' (*ibid.*). It enables the audience to see the

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comprehensive account of what public service broadcasting is (Broadcasting Research Unit, 1986). It proposes eight principles:

- Universality (Geographic).
- Universality (of Appeal).
- Minorities, especially disadvantaged minorities, should receive particular provision.
- Broadcasters should recognise their special relationship to the sense of national identity and community.
- Broadcasting should be distanced from all vested interests, and in particular from those of the government of the day.
- Universality of payment.
- Broadcasting should be structured so as to encourage competition in good programming rather than competition for numbers.
- The public guidelines for broadcasting should be designed to liberate rather than restrict the programme makers.

breadth and rich diversity of the country but to also identify those differences as part of their own identity. Thus a viewer in the city can see and recognise rural life as part of their own culture and a listener in a small, racially homogenous Kent village can begin to identify with an ethnically diverse community in a Northern city.

In addressing this, the Broadcasting Research Unit point to Habermas' concept of the public sphere. We will comment on the public sphere further below, but the public sphere may be understood as the 'realm of our social life in which something approaching public opinion can be formed' (Habermas 1974, 49). With this in mind the Broadcasting Research Unit proposes first that public service broadcasting embodies the role of the 'public sphere as central to a democratic polity'. It continues:

> 'Public service broadcasting is obliged to address its audience as rational citizens and to provide them with the information upon which rational debate can be based. Thus while public service broadcasting must be seen as separated from the State, it is in its essence highly political. Indeed it is one of the grounds of true democratic politics. This means that it must work within some notion of the public community it is addressing, i.e. its remit must be coterminous with the political realm within which a consensus as to the common good is to be arrived at. Thus the remit of public service broadcasting, the provision, for instance, of national news coverage and the provision of participation at major national events, is intimately tied to the political notion.' (Broadcasting Research Unit 1986, 8).

The takeaway here is that if we are to regard public service broadcasting as a primary component of the public sphere of a nation, then in order for it to function in that way, then it must also address itself to the nation as a single political unit and be ready to frame its coverage in that light.

4.2.3. The function of broadcasting

Reith wrote:

> *[Entertainment] may still be, in the full sense, the primary function [of broadcasting.]*
>
> *I think it will be admitted by all, that to have exploited so great a scientific invention for the purpose and pursuit of 'entertainment' alone would have been a prostitution of its powers and insult to the character and intelligence of the people.* (Reith 1924, 17f.)

Reith allows that the primary function of broadcasting is entertainment. But this is not simply 'jazz bands and popular music, or of sketches by humourists' (*ibid.,* 18) - Reith is dismissive of such a restricted understanding. Reith held an Arnoldian vision of considering that broadcasting should seek to elevate those for whom that service is affecting. He continues:

> *On the other hand, [entertainment] may be part of a systematic and sustained endeavour to re-create, to build up knowledge, experience and character, perhaps even in the face of obstacles. Broadcasting enjoys the co-operation of the leaders of that section of the community whose duty and pleasure it is to give relaxation to the rest, but it is also aided by the discoverers of the intellectual forces which are moulding humanity, who are striving to show how time may be occupied not only agreeably, but well* (*ibid.*).

If we ask what Reith might mean by 'entertainment in the full sense', he gives us something of an answer. While entertainment may be 'jazz bands etc.', it might also be lectures, talks, documentaries, and for Reith, sermons and homilies (*ibid.*, 191-200). Reith proposes that entertainment may have the simple definition of 'to occupy agreeably' and this word agreeably extends to a far wider range of possibilities than merely 'relieving the tedium of life'.

While entertainment may be the primary function of broadcasting, Reith recognises that there are others that also have significant value. Following from his discussion of the fuller dimensions of entertainment, he says that 'it carries direct information on a hundred subjects to

innumerable men and women, who thereby will be enabled to … make up their own minds in many matters of vital moment'. Where previously people would have either had to trust in the opinions of others or resign themselves to no interest in the matter themselves, they are now exposed to new ideas, points of view, fields of knowledge.

Finally, broadcasting has the function of making the inaccessible (or at least the difficult to access) accessible. Reith notes that 'a large proportion of the people were shut off from first-hand knowledge of the events that make history' (*ibid.*, 15f.). Broadcasting brings the key moments of politics and culture within the immediate reach of the people. On simple, affordable and easily obtainable equipment, in the comfort of one's own home, a person – a 'crofter in the North of Scotland or the agricultural labourer in the West of England' (*ibid.*) – is able, at largely their own convenience, hear and thus appreciate and make judgements about the world around them. And if necessary, re: democracy, adjust the behaviour accordingly.

Reith's view of the function of broadcasting remains a key element in the BBC's ongoing mission: to inform, educate and entertain (H.M.S.O. 2016b, Art. 5). One way that Reith saw this function being fulfilled was in mixed programming – that listeners and viewer would have the opportunity to engage with content that might not have chosen as a matter of course. Scannell sees this as an essential characteristic of public service broadcasting (Scannell 1992, 319f.) alongside universal access to channels. It ensures that people in different locations, different stratas of society will have the same access and ability to be exposed to content outside of their immediate norms. This will give the viewer a greater sense of range of what is available in the first instance, but it will also open up a world of possibilities to them. Prior to broadcasting, access to different elements of culture was a reserve of the privileged, and culture, by consequence, reflected the world of the privileged as the norm. Mixed broadcasting in the public interest quickly widened the scope of the what was available – benefiting all (*ibid.,* 323f.). This same capacity is highlighted by Freedman when writes of its 'progressive instinct whereby

broadcast services with a commitment to quality and creativity can contribute to a process of social amelioration and illumination as well as enjoyment' (Freedman 2008, 148). If public service broadcasting is fulfilling its function, it will help to enable viewers to access and appreciate the broader cultural issues facing society.

Again, John Hartley, echoing Hoggart's 'The Uses of Literacy' proposes that television teaches viewers the 'amelioration of manners' – how to look, speak, behave, relate and so on (Hartley 1999, 155). Mixed programming on a service that prioritises universality of appeal and content affords viewers (and listeners – there is no reason why Hartley's insight should be limited to television) the opportunity to learn how others, from different walks of life, from different regions or segments of society, look and engage with the world. And since media is no respecter of differences – it doesn't care who is watching – it promotes a common identity, and an overarching view of the available options (*ibid.,* 158). It promotes what Hartley calls a 'cultural citizenship' that does not supplant other models of citizenship but extends it. Both Hartley and Hendy suggest that there is something ecclesiastical about broadcasting. Hendy follows Eliot (see Hoggart 1993, 70) in suggesting that broadcasters fill a similar function as priests – making what is difficult into easily palatable content capable of being understood by the populace (Hendy 2013, 50).

Michael Tracey draws this insight back in relation to the principles above, noting public service broadcasting's commitment to education (Tracey 1998, 30):

> "Public broadcasting knows that political and social literacy, as well as of course literal literacy, is an essential prerequisite to the healthy working of a democratic order. Above all else, the commitment to this principle requires that it treat its audience as mature, rational beings capable of learning and growing in many ways."

The function of broadcasting, at least within the public service context, is to go beyond entertainment and to enable the elevation of its viewers and listeners – to not only entertain but to education and inform.

4.2.4. A public service

Perhaps the most axiomatic definition of public service broadcasting would be that it is broadcasting in the interests of the public. However, most attempts to articulate what this means, do so negatively – as in highlighting what is not in the public's interest. For instance, when Reith talks of broadcasting in this way[61], he sees it, first and foremost, in contrast to a commercial service – 'The [public service] company is not out to make money for the sake of making money' (Reith 1924, 57)[62]. But by the same token, he saw a public service in contrast to being in service of the government – it is to be free from governmental interference. Reith declared that 'impartiality is essential' (*ibid.*, 112). People must feel confident that what they

[61] One thing that Reith does not engage with is the distinction that can be drawn between public service and public interest – operating on behalf of the public might not necessarily be the same as operating in the interests of the public (cf. Barry 1964, Scannell & Cardiff 1991; cf. paternalism).

[62] It is notable that Reith does not place the two models as diametrically opposed. In other words, a public service company might make money, but making money is not its objective; a commercial company has making money as an objective.

hear (or see or read) is as unvarnished by influence as possible. While this might indicate vested interests, it also includes the interests of political parties and even government[63, 64].

The Pilkington Committee was keen to see that broadcasters, both the BBC and the ITA were broadcasting in the public interest and it was a recurrent theme throughout the Report; for instance, the second recommendation made in the report was that 'there should be unremitting observance of the independence of the broadcasting authorities from government intervention' (H.M.S.O. 1962, 287). Similarly, in Hoggart's summary of the Report's finding, he stated that the Committee considered that 'so far as possible provision must be made for all, not just for those who are worth wooing for an ulterior end' (Hoggart 1993, 66).

Unsurprisingly, the Broadcasting Research Unit, with Hoggart as chair, found similarly, presenting as their fifth principle that 'broadcasting should be distanced from all vested interests, and in particular those of the government of the day' (Broadcasting Research Unit

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[63] Reith does not give a definitive account of what he thinks constitutes a public service. However, the following lines give some sense of what he means:

> *I think that there can be little doubt that the organisation is being conducted on the lines of a public service, the maximum benefit to the maximum number being kept in view. Service is one of the essential characteristics of friendship. There are few words in the language which are subjected to such gross abuse as friendship or made to bear such an amazing variety of interpretations. It is, however, not altogether beyond the point or absurd to claim that, from the evidence of their endeavour to serve, the Broadcasting Company may be regarded as the friends of the people of these Islands and have indeed come to be so accepted. "Yes, it's a* friendly *thing," I heard an old lady say wistfully, as she switched off her set after the announcer's courteous and friendly "good night!" There is a power of significance in her remark.* (Reith 1924, 64).

Two observations: firstly, the explicitly utilitarian model of assessing the successes (or otherwise) of a given organisation; second, just as Reith recognises the ambiguous nature of 'friendship', his use of it does little to remove the ambiguity of 'service' – it might, however, offer an intuitive gloss to the notion.

[64] Reith engages with the extent of governmental interference several times in his memoirs, typically remarking on efforts to influence the content or tone of reporting and the means by which these were rebuffed. However, Reith accepts that there may be occasions where government should interfere – when the public service broadcaster is not fulfilling its obligations or is exceeding its power (Reith 1949, 133). Nonetheless, he says:

> *The crucial point to me in 1930 was freedom from political or ministerial or civil service interference directly or indirectly in management.* (*ibid.*)

1986, 9). Scannell also identifies public interest as integral for public service broadcasting, although he recognises that this can create difficulties in that often governments claim the right to define what is in the public interest (Scannell 1990, 24). However, it may often be in the public interest to challenge and potentially upset the government, and this is vital element of the news function to inform people so as to properly fulfil their democratic role.

This aspect of responsibility often draws less attention in the literature on public service broadcasting – that it ought to act as a public watchdog (McQuail 2010). This might be because it is often aligned to a concept that has attracted some criticism – the fourth estate[65] - or it might be because commercial media has produced some notable examples of its own, a classic example being Bernstein and Woodward working for the Washington Post. Nonetheless, Nowak (2014) holds that since the interest of public service media is the 'public' and not the political elite or commercial bodies, the watchdog role of public service broadcasting is vital. It is in the public interest that the media is free and committed to investigating issues, most obviously amongst the powerful, of corruption. This concern is echoed by the European Court of Human Rights in the case of *The Observer and The Guardian vs. United Kingdom* (1991) [Para. 59(b)] who state that 'not only does the press have the task of imparting such information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of 'public watchdog.'

4.2.5. The best of everything

[65] James Curran considers the typical beliefs regarding a 'fourth estate' debateable. The press, prior to broadcasting, was already firmly on the side of the establishment – many papers being owned by prominent figures, including many politicians (Curran 1977, 198, n.8). Tom Burns notes that broadcasters, being as dependent as they are on government are often less inclined to fulfil a 'fourth estate' role (Burns 1977, 58)

> *It is the policy of the Company to bring the best of everything into the greatest number of homes. If this policy is carried out, many educative influences must be stirred.* (Reith 1924, 147)

We have already commented on Reith's dependence on the thought of Matthew Arnold. Arnold held that developing and promoting culture is not only good for the individual (intellectually and morally) but it is also good for society (intellectually and morally). Arnold's contrast of culture and anarchy is not accidental – if we do not encourage the one, we will be left with the other. Broadcasting, then, in encouraging and promoting culture, is not only good in respect to democracy, but it gives opportunity to moral improvement also.

Reith sees in broadcasting a means to overcoming the natural obstacles to culture; family, class, luck, circumstance. Whereas in the past a person's cultural status was more or less determined unless something unexpected intervened; it was dyed by family and environment; now, broadcasting, which is almost universal, as well as cheap and convenient, is available to all. Reith: 'most of the good things of this world are badly distributed… but wireless is a good thing… it may be shared by all.' (*ibid.*)

> *Broadcasting is a national service the full importance of which will in due course be recognised… In entertainment or edification, in enlightenment or education, in all the manifold phases of its activity there is a consolidating influence at work.* (*ibid.*, 219)

Nonetheless, here we draw near to the caricature Reith. Reith's reputation here is that he knows what everyone wants, even if they do not know themselves that they want it. Even if that reputation is exaggerated, he certainly does not trust the listener to know for themselves what they genuinely want. In his memoirs, Reith wrote:

> *'I am certain of this, that to set out to give the public what it wants – as the saying is – is a dangerous and fallacious policy, involving almost always an underestimate of public*

> *intelligence and continual lowering of standards… Thus it turns out to be not the monopoly but the competitive system that is obliged to play for safety. It is not insistent autocracy but wisdom that suggests a policy of broadcasting carefully and persistently on the basis of giving people what one believes that they should like and will come to like, granting, of course, discretion, understanding and resolution on the part of those who carry it out. The supply of good things will create the demand for more.' And the days of the years of broadcasting have shown that to be true – in both directions* (Reith 1949, 133).

Reith suggests that to simply give the people what they want without qualification will result in approximating the lowest common denominator. And if someone tries to give them what they want, they will play safe and keep them happy. They will certainly not try to expand the range of flavours even, still less introduce vegetables. Instead, Reith believes himself the 'grown-up'. He knows what is genuinely best and will (albeit slowly and carefully) draw the listeners and viewers to what is good for them[66]. And when they get used to the new flavours, when they have been properly educated, they will come to see that Reith was right. What we have here in this picture is paternalism, pure and simple.

And yet, when we come to that final line; there is truth to it. Where radio (for example, in the American system) is governed by competitive principles alone and in so doing gives the people what they want, the people are far more likely to get it and are far less likely to ask for something more complex or demanding. Similarly, Reith would argue that having *not* been given what they want, the BBC's listeners learned to enjoy what Reith would think of as 'the best of everything'. If

[66] Briggs observes that Reith did try to avoid the danger 'of relying exclusively on his own tastes and principles'. He set up and developed the Programme Board with a view to establishing independent external advisors and advisory committees. Initially they drew from the public, but increasingly depended upon expert advice. Amongst these committees included the Religious Advisory Committee, but it was soon followed by the Central Educational Advisory Committee (and subsequently local committees) (Briggs 1995, I: 219-227).

you encourage your listeners to engage with 'higher' art forms (especially if you also limit their access to 'lower' examples), they will learn to like it and appreciate it and recognise its worth[67].

[67] In his memoirs Reith added:

'So the responsibility as at the outset conceived, and despite all discouragements pursued, was to carry unto the greatest number of homes everything that was best in every department of human knowledge, endeavour and achievement; and to avoid whatever was or might be hurtful. In earliest years accused of setting out to give the public not what it wanted but what the BBC thought it should have, the answer was that few knew what they wanted, fewer what they needed. In any event, it was better to over-estimate than to under-estimate. If another policy had been adopted – that of the lowest common denominator – what then? Probably nobody would have protested; it would have been quite natural.' (Reith 1949, 101)

The Pilkington Committee continued this line of thought. It sat in the context of the BBC's monopoly having been broken, and in the new ITA franchises being thought of as being too populist – a move too far from the Reithian principles that had defined broadcasting until this point. A significant dimension of the argument that the committee was considering was the view that there was a dichotomy between giving the public what it wants and giving the public what you think it ought to want – directly recalling Reith. In other words, the choice seems to be aiming for populism in broadcasting or paternalism – broadcasters deciding on behalf of the audience what they should (if only they knew better) want to watch. The implication of this dichotomy is that the former position is more desirable than the latter, which was judged to be 'patronising and arrogant' (HMSO 1962*,* 18, para. 49).

Indeed, one of the primary defences issued by the ITA was that it was giving the public what it wanted. However, this presents the 'public' as a singular 'amorphous, uniform mass', which it is not (*ibid.*, 16, para. 44). The public is comprised of individual people; of whom, no two are alike. 'Some of our tastes and needs we share with virtually everybody: but most – and they are often those which engage us most intensely – we share with different minorities' (*ibid*.). Giving the public what it wants is, itself, patronising and arrogant insofar as it attempts to claim to know what the public wants, which given the diverse nature of the public is not straightforward. Instead, what is delivered is limited to the 'average of experience'. Giving the public what it wants also requires that the public is fully abreast of the things that it might want. 'Unless the public knows the whole range of possibilities which television can offer' (*ibid.,* 17, para. 46) we cannot properly know what the public wants in its broadcasting.

Furthermore, in a note echoing Reith, the report suggested that 'those who say they give the public what it wants begin by under-estimating public taste and end by debauching it' (*ibid.,* 17, para. 47; Hoggart attributes the line to T.S. Eliot (1993, 70)).

Paragraph 49 reads:

> The alternative is often presented as this; that the broadcaster should "give the public what he thinks is good for it." This philosophy too we would reject as patronising and arrogant. But it was never advocated to us in evidence; and it is not, as is sometimes suggested, the only alternative. The choice is not between either "giving the public what it wants", or "giving the public what someone thinks is good for it", and nothing else. There is an area of possibility between the two; and it is within this area that the choice lies. The broadcasting authorities have certainly a duty to keep sensitively aware of the public's tastes and attitudes as they now are and in all their variety; and to care about them. But if they do more than that, this is not to give the public "what someone thinks is good for it". It is to respect the public's right to choose from the widest possible range of subject matter and so to enlarge worthwhile experience. Because, in principle, the possible range of subject matter is inexhaustible, all of it can never be presented, nor can the public know what the range is. So, the broadcaster must explore it, and choose from it first. This

A final observation here is worth noting – Reith was insistent upon mixed programming, whereby different strands of programming were, within limits, placed alongside each other – such that talk be placed against music. It was vital, regardless, that listeners were able to hear the 'best things'. Broadcasting 'could enlarge horizons, both artistically and politically,' as well as 'engender new cultural interests'. 'Politically it could serve as an instrument of integration in a divided community' (Briggs 1995. II: 37). As such, Reith's approach represents an early move towards an appreciation of diversity in broadcasting, both in respect to reflecting the interests of different groups of listeners, but also in widening those interests.

4.3. Public Service Broadcasting and the Public Sphere

There are many ways that we could have sliced up the key principles of public service broadcasting – different thinkers and research groups have framed them in different ways,

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> might be called "giving a lead": but it is not the lead of the autocratic or arrogant. It is the proper exercise of responsibility by public authorities duly constituted as trustees for the public interest.

The Report rejected this dichotomy. It was not populism or paternalism, as there was plenty of space in between. This included ensuring that the public had the best view of the available options. When this was achieved, and the Report pointed to the past performance of the BBC, we see the public developing tastes for things, where previously there had been none; examples include symphony concerts, competitive swimming, and classical literature (*ibid.,* 17, para. 47). Underpinning this response is the observation, reinforced by psychologists and sociologists like Renate Salecl and Daniel Kahneman, that decisions made by people are often less well-thought through than they think they are, and until they have had time to properly consider the option, they are likely to make poor or incomplete decisions (Hendy 2013, 101). Hendy, again following Kahneman, notes that organisations are often better at making decisions than individuals – they have the power to think more slowly and have the power to apply orderly procedures (Kahneman 2011, 417-418). This coupled with people's 'residual trust' in experts (Hendy 2013, 101), offers a reinforcing ground to not take a simple either/or position to the false-choice of paternalism or populism.

Hoggart later recalled an aphorism he attributes to Huw Wheldon, broadcaster and later Managing Director of BBC TV: A public service broadcaster should make good programmes popular and popular programmes good (Hoggart 2004, 116)[67]. Clarifying this, he continues:

> By 'good' programmes he meant those made because the broadcaster thought them, though perhaps 'difficult', of great value and wished without 'selling them' by over-simplification to make them widely available. By popular programmes he meant those unlikely to appeal to and not designed specifically for a highly educated audience but which became 'good' because they too did not sell out by patronising, or secretly despising, their audience's taste, by talking down to them.

As examples of the first sort, Hoggart points to science, history and arts programming. Of the second, he has in mind shows like Morcambe and Wise, Yes, Minister, Fawlty Towers or The Royle Family (*ibid.*).

prioritising some features and playing down others. I have not troubled myself with trying to offer a definitive account. What I am aiming to clarify is something of the role that the BBC is to be performing as a public service broadcaster. Within this, a key element of this role is seen in promoting the values of citizenship, which can be seen in contrast to the consumer values that typically underpin the deployment of recommender systems on commercial platforms.

For example, Sarikakis has argued that public service broadcasting was needed in modern liberal democracies for a variety of reasons, each of which echo the principles that we have discussed; to represent the diversity of people and groups within the wider community, including their opinions and experiences; to help promote a common realm giving rising to feelings of community but also a sphere where common rights and opportunities are present; to educate and provide citizens with a minimum of skills to enable them to participate in public affairs. She concludes that "culture and democracy are not served by the market in any satisfactory or complete manner. Cultural citizenship and the centrality of communication in contemporary societies are inextricably linked to communicative spaces, rights and dialogue" (Sarikakis 2010, 97-98). Key here is the link between citizenship and communicative spaces, spaces where citizens have the opportunity to communicate and deliberate and learn from one another. Contrast that to consumer spaces, in which spaces an individual is able to commune with providers of goods to satisfy their personal needs. At the heart of citizenship values and of the principles consistently highlighted in public service broadcasting, the individual's needs are firmly placed within the context of citizenship and as such, the broader community.

A clearer example may be drawn from Habermas' concept of the public sphere, which we have already made mention of when discussing the development of national identity. It has been a common motif in discussing public service broadcasting to draw comparisons and to illustrate it by reference to the idea. I shall briefly summarise the overall scope taken in Habermas' primary text on the subject, *The Structural Transformation of the Public Sphere (1989)*.

Habermas proposed that in the late 17th and 18th century there arose, in the salons and coffee shops, and in the growing trade of journals and papers, a new social dimension of publicness, whereby private individuals, standing outside of the domain of the state, were able to debate and reason together. Habermas wrote:

> "The bourgeois public sphere may be conceived above all as the sphere of private people come together as a public; they soon claimed the public sphere regulated from above again the public authorities themselves, to engage them in a debate over the general rules governing relations in the basically privatised but publicly relevant sphere of commodity exchange and social labour. The medium of this political confrontation was peculiar and without historical precedent: people's public use of their reason." (Habermas 1989, 27)

In simple terms, private, but propertied, individuals, through debate and deliberation in person and through the world of letters, using practical reason, were able to develop a distinctly public common opinion on matters that concerned them; these being, firstly matters of trade and business, but extending in time into matters of politics and common life. This discourse was not the 'property' of the state since it occurred in the private realm, but it rapidly concerned itself with the state and the dispersal of power.

As the 18th century turned to the 19th, the public began to grow bigger, there were claims for greater enfranchisement and differences within society, especially inequalities that could be bracketed amidst smaller groups, became harder to conceal and to avoid the conflicts embedded in them (*ibid.,* 130-133). Three further developments occurred over the 19th to 20th centuries. The state began to encroach more directly upon the private realm; starting to provide services that had hitherto been in private hands and intervening in matters of trade, labour and production (*ibid*. 145-148). Second, with the growth of mass media publications, the public transformed from being characterised by their debating and engagement with culture to one

marked almost entirely by consumption, which required no discussion, only passivity. Where debate continued, it was commodified, packaged, reproduced for a mass market. Habermas writes: 'Indeed, mass culture has earned its rather dubious name precisely by achieving increased sales by adapting to the need for relaxation and entertainment on the part of consumer strata with relatively little education, rather than through the guidance of an enlarged public towards the appreciation of a culture undamaged in its substance' (*ibid.,* 165). Third, the world of letters, so fundamental to the public sphere, began to change beyond recognition and take on a radically different function. Habermas quotes Bücher: 'From mere institutions for the publication of news, the papers became carriers and leaders of public opinion, and instruments in the arsenal of party politics. For the internal organisation of the newspaper enterprise this had the consequence that a new function was inserted between the gather and the publication of news: the editorial function. For the newspaper's publisher, however, this meant that he changed from being a merchant of news to being a dealer in public opinion' (*ibid.*, 182)[68].

In sum, Habermas ends pessimistically – 'the world fashioned by the mass media is a public sphere in appearance only' (*ibid.,*171). Calhoun summaries the demise of the public sphere:

> "By means of these transformations, the public sphere has become more an arena for advertising than a setting for rational-critical debate. Legislators stage displays for constituents. Special interest organisations use publicity work to increase the prestige

[68] There is value in highlighting a further quote on the changing face of news.
"Editorial opinions recede behind information from press agencies and reports from correspondents; critical debate disappears behind the veil of internal decisions concerning the selection and presentation of the material. In addition, the share of political or politically relevant news changes. Public affairs, social problems, economic matters, education, and health – according to the categorisation suggested by American authors, precisely the 'delayed reward news' – are not only pushed into the background by 'immediate reward news' (comics, corruption, accidents, disasters, sports, recreation, social events, and human interest) … In the end the news generally assumes some sort of guise and is made to resemble a narrative from its format down to stylistic detail (news stories); the rigorous distinction between fact and fiction is ever more frequently abandoned. News and reports and even editorial opinions are dressed up with all the accoutrements of entertainment literature, whereas on the other hand the belletrist contributions aim for the strictly 'realistic' reduplication of reality 'as it is' on the level of cliches and thus, in turn, erase the line between fiction and report (*ibid.,*169-170)

> of their own positions, without making the topics which those positions refer subjects of genuine public debate … The media are used to create occasions for consumers to identify with the public positions or personas of others … The public sphere becomes a setting for states and corporate actors to develop legitimacy not by responding appropriately to an independent and critical public but by seeking to instil in social actors motivations that conform to the needs of the overall system." (Calhoun 1992, 26)

Habermas' thesis here has been subject to a great deal of discussion and debate. Butsch lists some criticisms as the absence of equality with the public sphere, that reason is not its necessary foundation, that mass media has not destroyed the public sphere, but considers the principal line taken against Habermas as the focus on his historical sphere and its exclusivity (Butsch 2007, 5; Fraser 1992). A further criticism is levied by Curran who takes Habermas to task for underestimating the role of broadcasting as media, especially in suggesting that it has produced little more than an uncritical torpor (Curran 1991, 41). Habermas himself continues to engage with these criticisms, has adjusted his position on some details, and the literature is still thriving, but I do not propose that we are side-tracked but instead, as Bernstein suggests, focus on what he calls the 'normative core' of the public sphere – the 'what ought to be' contained within it. He concludes that the 'revitalisation of a public sphere in which there is genuine debate and mutual participation is till not only a real concrete and urgent possibility but a task before us' (Bernstein 2012, 777). It is this urge, the perception of this task, that is found in its being used as a grounding for public service broadcasting.

Amongst the reasons Curran criticises Habermas's dismissal of broadcasting is that he considers that broadcasting, especially in Britain, including the ITV franchises, at least until the rise of satellite television, offers a better approximation of the public sphere than the 'polemicist and faction-ridden London press of the eighteenth century'. Public service broadcasting in the UK possessed an ideology of disinterested professionalism', a 'careful

balancing of opposed points of view and umpired studio discussions' (Curran 1991, 42). Broadcasting in Britain has also managed to achieve some level of autonomy from Government, and while this has at times been questioned and put under stress, it has allowed individuals to be exposed to genuine critical analysis of governmental policies. Similarly, it has 'democratized' the relationship between government and the people – television is the locus for much national debate, which has been increasingly 'relaxed', 'personal' and 'accessible', all of which operates as an 'emancipatory force that empowered the people' (*ibid.,* 43). Further, public service broadcasting has found novel and powerful ways of raising social issues and questions, democratising them, and presenting them in ways that reflect the diversity of responses they might provoke. This has been done through factual programming as well as through drama and comedy (*ibid.,* 44; see also Curran 2010).

Garnham, too, draws parallels between the public sphere and public service broadcasting (Garnham 1990). He begins by making a series of observations drawn from Habermas – that the public sphere was ultimately destroyed by the same forces that had enabled it in the first place, namely the development of the capitalist economy. There was a was an increasingly uneven distribution of wealth, enabling rising entry costs and ultimately a level of control of the sphere that the flow of public information gave way to manipulation (*ibid.,* 360). Second, Garnham sought to underline that the principles that supported the public sphere were not the same as the institutions that may embody those principles and enact them – for instance, the courts or elections. These principles he identifies as the general accessibility to information, elimination of privilege, the search for general norms, and rational legitimation (*ibid.,* 361).

These principles could be said to form part of the normative core highlighted by Bernstein above in that they represent part of the 'ideal type' of the public sphere (*ibid.*). The strengths of this concept conceived this way include that it stresses the importance for democratic politics to be a sphere distinct from the economy and the state and that it holds rationality and universality

‘as key moments in any democratic practice’ (*ibid.*). We can see here how the public service model of broadcasting holds true to the principles of the public sphere. Public service broadcasting also demands to be insulated from the economy and the state. This insulation is demanded because there is a ‘fundamental contradiction between the economic and the political at the level of their value systems and of the social relations which those value systems require and support’ (*ibid.,* 362).

In a later piece, Habermas draws a similar conclusion. He writes that while market categories in themselves do not necessarily ‘induce commodification’. However:

> ‘Under the pressure of shareholders who thirst for higher revenues, it is the intrusion of the functional imperatives of the market economy’ into the ‘internal logic of the production and presentation of messages that leads to the covert displacement of one category of communication by another: issues of political discourse become assimilated into and absorbed by the modes and contents of entertainment. Besides personalisation, the dramatization of events, the simplifications of complex matters, and the vivid polarisation of conflicts promote civic privatism and a mood of anti-politics’. (Habermas 2006, 422).

4.4. Towards Public Service Media

Following this, I want to comment a little on the shift from public service broadcasting to media, and draw in some of the discussion about digital technologies.

The period when public service broadcasting was first conceived was marked by two distinct factors. In the first place, the first half of the twentieth century, especially following the world wars, there was a concern for public service – improving the cultural lives of citizens with education, art galleries and museums. It was no great leap to consider the new technology of broadcasting in the same way (Murdock 2004, 4). Secondly, broadcasting faced the problem of

spectrum scarcity. There were a limited number of signals that could be sent and received; one could either embrace a commercial system and risk the sort of chaos that the United States wrestled with in the early years of broadcasting, or one could regulate broadcasting and license a single broadcaster. By the final years of the twentieth century, neither of these held the same sway. The public service ethos had, in large part, given way to a commercial one, and technology had progressed such that five simultaneous terrestrial television channels were supportable in addition to greater number of radio signals. Furthermore, other means of broadcasting were becoming accessible and gaining market prominence; cable and satellite services, which allowed for subscription services; 'red button' services became available; eventually, of course, the internet and, in time, streaming services would revolutionise mainstream consumption of media. Alongside the methods of broadcasting, new technologies for receiving media have proliferated in the marketplace, which have made radical changes in the expectations of viewers, especially those in younger demographics[69].

In short, as Jakubowicz puts it: 'the traditional mode of public service broadcasting – one way and top-down – is no longer tenable' (Jakubowicz 2010, 10). He continues that given that the whole context of broadcasting has changed, the public service broadcasting remit should be extended and revised, including policy and regulatory frameworks – 'nothing less than a Copernican revolution' (*ibid.,*). All the same, he concludes that we do still need public service

[69] Van Cuilenburg & McQuail (2003) examining the development of media policy, proposed that there have been three phases, or paradigms, since the inception of broadcasting. The first corresponded to the emergence of communications industry policy, which lasted up until the second world war. The second they identified with public service broadcasting and lasted until the 1980s. The third, still the current phase, absorbs the increased convergence of technologies and their respective economic environments (i.e., the media and telecommunications industries) but is driven more by competition and private interests. Regulation is maintained where necessary, but it is often sector specific, with a view of maintaining the public interest. They conclude (echoed by Bardoel & Lowe 2007) that the current environment recalls the first and potentially its transition into in that we are faced with largely new modes of technology, resting primarily in private hands, that need to develop. The authors write that 'the first stage was one of encouragement to develop for economic and industrial reasons and we are entering a second stage where reasons for control on public interest grounds are beginning to assert themselves' (*ibid.,* 205). All that said, these words were written 20 years ago and it is not at all plain that we have entered a new public service paradigm.

broadcasting (whether we choose to rename it 'public service media' [Lowe 2011], 'full-service public communicator' [Raboy 2008], 'PSB 2.0' [Brevini 2013] or with Jakubowicz 'PSB 3.0').

So, what is PSB 3.0? Jakubowicz defines it as 'PSB + all relevant platforms + Web 2.0' (*ibid.*). It's goal is 'multimediality due to technological, media and organisational convergence, changing the way in which programming/content is made, and requiring market, product and process innovation. This makes possible cross-media strategies, such as newsroom convergence' (*ibid.,* 15). Another way of framing this would be to consider this as public service broadcasting within the context of the affordances offered by the internet, specifically 'the net's interactivity, co-presence of vertical and horizontal communication, disintermediation, speed and absence of boundaries' (Dahlgren and Olsson 2007, 198) as well as, in more recent times, the increased opportunities of scale and speed offered by fibre-optic technologies. Dahlgren and Olsson propose that this shift of environment demands the re-conceptualisation of a new public sphere, which, in turn, draws our attention to our civic culture, since a civic culture is often judged 'a prerequisite for a public sphere' (*ibid.,* 201).

Even though there have been optimistic voices following the rise of the internet, seeing it as offering a potential enhancement of democracy (Fukayama 1999), especially through increased opportunities for citizens to participate and through citizen-journalists (Beckett 2008), there are also concerns. We have already commented on a series of concerns specific to the role of recommender systems, but broader, less specific concerns have included the extent to which the internet is dominated by business and commercial interests and is largely used for commercial and entertainment purposes rather than news and political participation (Brevini 2013, 31; Murdock 2004, Vaughn & Thelwall 2004).

These themes are familiar - we have already discussed citizenship, what it means, and unpacked some of the links between it and public service broadcasting and how it contrasts with the values with associate with consumerism (Section 2.2.). To recap, we proposed that

citizenship was comprised of three elements: the opportunity to participate in community decision making, a set of rights and responsibilities within the community, and a set of capabilities that enable participation. Brevini focuses in on the second of these, specifically what she refers to as communication rights, including the freedom of expression and opinion, but also rights to privacy, education, association, and participation in cultural and political life (Brevini 2013, 41). From these she develops themes which, as integral components of citizenship, she proposes form the normative framework for public service media in the digital age, including universality and trust.

Universality has been a consistent theme of public service broadcasting since its inception. This remains the case and is, if anything, more pressing in the present era[70]. Universality can be understood in a variety of ways. Universality of appeal seeks that broadcasters produce content that offers something to all; universality of availability is concerned with ensuring content is accessible to all. However, in the light of the rapid changes in technology, it is plain that we need to reframe our understanding and responses. The Council of Europe (2007) offers a helpful place to start. Recommendations 4 & 5 read:

> 4. The principle of universality, which is fundamental to public service media, should be addressed having regard to technical, social and content aspects. Member states should, in particular, ensure that public service media can be present on significant platforms and have the necessary resources for this purpose.
>
> 5. In view of changing user habits, public service media should be able to offer both generalist and specialised contents and services, as well as personalised interactive

[70] Bardoel and Lowe note that the market orientated media landscape has not lived up its promises. A greater role for private companies in the context of convergence, globalisation and digitisation were supposed to create more diversity and, with lower entry costs, open up the field for new players, but this has not led to greater diversity or a more open marketplace with lower entry costs – the opposite has been the case (2007, 15). The net result for universalism has been its diminishment, no matter how you cut it

and on-demand services. They should address all generations, but especially involve the younger generation in active forms of communication, encouraging the provision of user-generated content and establishing other participatory schemes.

Recommendation 4 recognises that there are different contexts to take into account when thinking of universality in the digital era. There are technical considerations of the specific technologies employed as well as the range of devices that might be used. There are social dimensions, reflecting the various ways that individuals and communities and stratas of society might access or be able to access media content – for instance, some technologies may produce and employ very specific, potentially expensive, equipment to access, which may not enjoy widespread access. Finally, content will vary according to medium and technological affordances, It goes on to encourage member states to ensure that public service media is deployed or deployable on an adequately wide range of technologies. Recommendation 5 identifies the variety of platforms, and considers that public service broadcasters should engage with them flexibly to ensure that there is content that has wide appeal and applicability to platforms, as well as other content that may be more particular in its appeal to communities or demographics.

Brevini proposes a hierarchy of 'components' of universality (Brevini 2013, 44-46). At the bottom she places 'access to networks', by which she means broadband, mobile or phone networks. Even though public service broadcasters may need to be accessed through private internet service providers individuals ought to be able to access content from public service providers. Next she places 'access to content and 'must-carry' rules' – public service content should be subject to must carry rules to ensure that platforms and devices must be able to access and provide that content to users. Third, she places 'retrievability' – 'in an age of information abundance' she writes, public service content should be 'visible and easy to find online'. Finally,

most basically, universality requires that people are sufficiently media literate to be able to access and make use of the platforms that carry public service content.

This emphasis on universality finds its opposite in fragmentation, which has been identified as a risk of the digital age, especially amongst the more pessimistic. Gitlin asks:

> "Does it not look as if the public sphere, in falling, had shattered into a scatter of globules, like mercury? The diffusion of interactive technology surely enriches the possibilities for a plurality of publics – for the development of distinct groups organised around affinity and interest" (Gitlin 1998, 173)

Golding helps articulate the problem:

> "The ideal democracy assumes a shared culture and a universal integration of members of a community, however large and geographically dispersed, in some form of common set of understandings." (Golding 2010, 213)

Gitlin's anxiety shares much with the worries regarding 'filter bubbles' and 'echo chambers', and like those ideas, the evidence suggests that things are not as precarious as we might think. Studies show that while there are increased spheres of polarisation in British society, there remains more that is shared (Butt et al., 2022; Juan-Torres et al., 2020). Nonetheless, Golding's vision is important to keep in mind, given the changing technological landscape and looking to public service broadcasters, it is important that social coherence remains a vital point of focus.

One of the consequences of the new digital era is the erasure of 'gate-keepers'. As we have already commented (section 3.2.3.), what made it as 'news' was governed by editors and journalists and producers. According to various factors and conditions, including journalistic values, events were prioritised and stories were produced and became 'news'. New technologies and new platforms have made it possible for anyone to begin to produce content. Blogs allow people to write what they want and publish. Cameras, now present on almost any

mobile phone, enable individuals to produce and edit short films or audio pieces at very low cost. Platforms such as YouTube or TikTok enable people to upload them and present them to the world, and on social media platforms they can share them and potentially generate a great deal of attention. While much of this may be cute and/or innocuous, some will produce media on topics that would previously have been the exclusive province of news providers. And for many, especially the young (Coster 2022), a significant amount of this content is considered of relative worth to the content offered by traditional news providers of the mainstream media (Reuters Institute. 2023; Reuters Institute 2017).

While we might welcome the apparent democratisation suggested by this, that it is no longer a small, select, privileged group that get to decide on all of our behalf what is news and when, or if, the rest of us get to see it, the absence of 'gatekeepers' points to a loss of expertise, a loss of caution, and a potential rise of the 'cult of the amateur' (Keen 2008). Journalists and editors, especially those attached to established news agencies, have access to fact-checkers and know when it is appropriate to publish and when it is better to hold back and wait for further information. They are, in the field of news, experts and have greater access to people with expertise in other fields (academics, politicians, economists, etc.). Keen writes:

> "In the digital world's never-ending stream of unfiltered, user-generated content, things are indeed often not what they seem. Without editors, fact-checkers, administrators, or regulators to monitor what is being posted, we have no one to vouch for the reliability or credibility of the content we read.... There are no gatekeepers to filter truth from fiction, genuine content from advertising, legitimate information from errors or outright deceit. Who is to point out the lies on the blogosphere that attempt to rewrite our history and spread rumour as fact? When we are all authors, and some of us are writing fiction, whom can we trust?...

> ...And when information on politics and policy is so easily skewed or distorted, it's us, the electorate, who lose. When we, the citizens, don't know whom to believe or whom to trust, we may end up making the wrong decisions, or, worse yet, just switch off—from the candidates, from politics, from voting at all.
>
> The YouTubification of politics is a threat to civic culture. It infantilizes the political process, silencing public discourse and leaving the future of the government up to thirty-second video clips shot by camcorder-wielding amateurs with political agendas." (Keen 2008, 64-65, 68)

Keen's position may be described as 'deeply conservative scepticism' and 'elitist' (Bondebjerg 2010, 118-119), but he highlights a worry that, even if we are not drawn to hold it as fiercely as Keen, needs to be attended to. What is at stake is trust. We will comment at length regarding the issue of epistemic trust (section 6.3.2.), but trust is vital in a functioning, healthy democracy. In the first place, it is vital that we have some degree of trust in the information we receive – otherwise, how will we have any confidence in the beliefs that we have that form our voting decisions? But also, there is value in trusting that our fellow voters have votes on the basis of beliefs that are epistemically reliable.

O'Neill proposes that placing trust has 'two directions of fit'. We might trust the content of someone's claim – whether or not we consider it to correspond empirically to the world around us. Trusting their commitment or their competence, in other words their trustworthiness, is a different sort of fit (O'Neill 2018, 294). Both 'directions' are relevant here, but it is the second that is more problematic in terms of the context we are considering. O'Neill writes:

> "Our problem is ... that it is often hard and time consuming to find a basis for trusting specific claims, commitments and competence, particularly when complex technologies and institutions influence, shape (and sometimes distort or falsify) the evidence we can obtain" (*ibid.,* 295)

In an online world where there are disparate voices, often opaque, often pseudonymous, the trickier question is not which claim is true but rather which claim is trustworthy. Assessing the truth of a claim may be time-consuming, but it is a matter of assessing the evidence. Assessing the trustworthiness of the speaker is harder and more demanding. She continues:

> "The digital revolution has undermined some traditional systems of quality control, made it easier to bypass expert gate-keepers, and offered opportunities to anonymous or non-competent actors, whose credential and competence cannot be checked" (*ibid.,* 297).

As a consequence, then, a public service broadcaster must make itself capable of meeting several ends in this context. It must, first of all, be trustworthy. The BBC has been keen to establish itself in this regard, and a key dimension of this is in its promotion of impartiality. In the 2023 Annual Report, renewing the commitment to impartiality is presented as the first strategic priority (BBC 2023, 8). In the 2007/2008 Annual Report, former Director General, Mark Thompson elaborated on what impartiality meant for the BBC:

> "Impartiality is one of the cornerstones of BBC editorial values. The public value it and demand it. It underpins the public trust in the BBC without which the BBC cannot function. Impartiality depends on accuracy, balance, context, distance, even-handedness, fairness, objectivity, open-mindedness, rigour, self-awareness, transparency and truth. It is about breadth of view and completeness." (BBC 2008, 43)

But second, public service broadcasters must shed a clear and authoritative light on the issues that generate the most heat. Often what is at stake is information overload – there are simply too many voices. There is a value in public service broadcasting to engage with these issues, not always necessarily to adjudicate (unless appropriate), to explain them, to help people to make sense of the debates for themselves. Hendy concludes:

"In searching for a 'trusted guide' to help us navigate our way through the sea of information in this highly individualised and participatory age we might therefore reassure ourselves that, in the words of .... Mark Thompson, some kind of 'Noah's Ark' might be available" (Hendy 2013, 122)

4.5. Public Service Broadcasting – A reiteration

Over the course of this chapter, we have accounted for the BBC and discussed the nature of public service broadcasting. I want to very briefly summarise some of what we have said with a view to reiterating why the BBC and public service broadcasting is of vital significance, particularly to the degree to which it stands apart from other commercial bodies that might be deploying recommender systems to the end of media content personalisation. The BBC, unlike commercial organisations, as a public service broadcaster, is committed to helping secure and facilitate the development of our democratic values as well as to state that it is a citizenship endeavour – in this, it is directed to our collective society, the ways in which we come together to speak to one another, to make decisions or even just to articulate the world together. I have drawn less here on academics, but from the declarations made by politicians and political bodies. I am keen to express, albeit very succinctly, that these ideas find their feet in the real world of political decision making.

One thing that is expressed regularly is the political role that public service broadcasters hold. The Council of Europe again and again express that they are 'fundamental to the functioning of a genuine democracy' (2012). Elsewhere, they state that public service media is 'indispensable for upholding democracy and democratic values, promoting social cohesion and tolerance' (2016), and that the independence of public service media is essential for the functioning of a democratic society (1996). The Council of Europe, again, sees the media, primarily as public service media, as playing a key role in the protection of democracy, human rights and the rule of law (2021). In each case, the same set of themes comes to the fore, that public service

broadcasting, though its role in informing and educating, facilitates individuals in coming together in the public sphere to meaningfully deliberate and engage with one another. The same documents highlight the potential of public service broadcasting to reflect the 'diversity of ideas and opinions' and in doing so to 'reinforce social cohesion' (Rec. CM/Rec (2012) 1). The Report into the State of Democracy also highlights its role as a 'public watchdog' (we will comment on this more in section 5.3.1.), in that public service broadcasting is well placed to look into issues arising across society and in so doing, to inform collective decision-making. In the European Broadcasting Union's most recent Annual Report, the primary callout from the President of the EBU, Delphine Ernetto Cunci, stated that 'producing and delivering independent news is a matter of stable democracies, and citizens are still turning to public service media for reliable information' (EBU 2022).

Ofcom highlights the role that public service broadcasters have in speaking to and reflecting diverse communities, cohering our societies and offering shared experiences whereby people can come together. It also highlights the role of trust, that public service broadcasters provide a platform of trust – offering reliable information that individuals can be sure of and can also provide a secure grounding for debate (Ofcom 2019; Ofcom 2018). These themes have been echoed by British politicians in the course of discussing the role of public service broadcasting. Speaking in a debate in the Lords, regarding the future funding of the BBC, Baroness Harding commented that 'it is a public service media organisation that has a mandate of universality to inform, educate and entertain all of us in some way or other, and it brings us all together when it really matters. It helps us to articulate the values we hold dear in our country, acting as national glue in an increasingly fragmented and social media-driven world'. In response, Baroness Bull commented that we ought not see public service broadcasters solely in the role of 'market failure', but as 'market-shaper' – 'leading innovation, setting new standards and taking the risks

necessary for new markets, creative ecosystems and supply chains to emerge'. A little later she described it as 'inventor, investor, innovator and "de-risker" of new technologies'[71].[72]

[71] Hansard, House of Lords, 16/12/2022 (https://hansard.parliament.uk/Lords/2022-12-16/debates/599AE769-D079-490C-A09F-DF86E1F79FEE/BBCFutureFunding(CommunicationsAndDigitalCommitteeReport)?highlight=%22public%20service%20media%22#contribution-FA5996FD-510A-4A16-92AC-EF2F4E8B88AA)

[72] Interesting to note, over the scope of this brief survey, the variations in focus between the Council of Europe and the European Broadcast Union, and Ofcom and some of the recent comments of British politicians regarding the primary concentrations of public service broadcasting. Again and again, the CoE and EBU frame them first and foremost in the light of their political dimension – defending, assuring, facilitating democracy. However, Ofcom and British politicians put more emphasis on the place that public service broadcasting holds in the industry landscape. For instance, in the Report 'Public Service Broadcasting in the Digital Age' (Ofcom 2018), under the chapter heading: Why Public Service Broadcasting Matters, the first point mentioned (2.1) is that 'the broadcasting sector is integral to a thriving creative economy in the UK'. The second section (2.2) includes as a primary purpose that it 'ensur[es] that the public had access to high quality television'. The third, while it notes that they provide impartial news and speak to different communities, places as a priority that it responds to market failure. Finally, when articulating for itself what it holds as the primary purposes for public service broadcasting, it suggests:

- high quality (well-funded and well-produced);
- original (new UK content rather than repeats or bought-in content);
- innovative (breaking new ideas or re-inventing existing approaches, rather than copying old ones);
- challenging (making viewers think);
- widely available (most people are able to watch it).

5. The Legal Responsibilities of the BBC

Here we pick up the third premise of the argument we laid out in the introduction. The first was to say that we were defining responsibility, in the context of this study, to be a combination of role responsibility and the BBCs legal responsibilities. In the previous chapter we looked at the responsibilities that followed from the BBC's role as the nation's primary public service broadcaster, unpacking that concept as well as how it had changed as the media landscape had shifted towards fully embracing digital technologies. However, in this chapter we want to catalogue and examine the BBC's legal responsibilities, insofar as they are relevant to its deployment of recommender systems.

Our primary source here is to analyse the BBC's Charter. The Charter is the primary and defining document for the BBC, it is established in Parliament, and lays out the mission and the purposes of the BBC. All subsequent legal and regulatory expressions of the BBC's formal responsibilities are founded on it. Our attention regarding the Charter will be primarily directed to the mission and purposes that are placed upon the BBC, since these are the foundation. In doing so, we will pay particular attention to the concepts of public interest and public value, since each of these features prominently, fashioning the way that the Charter ought to be read. Neither are uncontroversial: both have prompted debate, but attention will be rewarded as we press forward from the Charter to consider the further legal responsibilities of the BBC. Following from the Charter, which we will support by other relevant documents, such as the BBC's agreement with government, and the BBC's Operating Licence, we will consider Ofcom's Broadcasting Standards Code. Following from the Communications Act 2003, and the 2017 Charter, which gave Ofcom regulatory responsibility over the BBC, Ofcom's Code has been an essential statement of what the BBC's legal responsibilities are – not least because the code is drawn from a wide range of legislation, all of which applies to the BBC directly. Since our

attention will be specific to the BBC's deployment of recommender systems, we will be selective in our analysis.

All of the laws and regulations considered thus far have been focused on the BBC specifically, or upon broadcasters. In the second half of the chapter, our scope widens to include law that is not particular to either, but that applies to all. We turn to the European Convention on Human Rights (ECHR), and the subsequent Human Rights Act 1998. Articles 8 and 10 have figured significantly in the relevant literatures as having application to broadcasting, including public service broadcasting, and to recommender systems. We examine these articles as well as relevant jurisprudence. We consider the UK GDPR and the Data Protection Act 2018, when considering the data implications of recommender systems. Finally, we briefly consider a small range of other relevant laws that pose particular challenges to the BBC. By the end of the chapter, we will have gathered a solid and comprehensive overview of the legal responsibilities of the BBC as they relate to the BBC's s deployment of recommender systems.

5.1. The Charter

Our first stop in laying out the prospective responsibilities of the BBC is the Charter, which lays out the expectations and obligations that the BBC is under. Roughly speaking, the Charter is renewed about every ten years[73]. The most recent was agreed in 2016 and put in place for January 1st 2017, and the next Charter is scheduled for 2027.

BBC Charters are legal documents that lay out explicitly the BBCs obligations. Jean Seaton notes in her overview of the Charter for the BBC that while the language of the Charter often

[73] This has not always held. The first Charter was signed in 1927 and was followed in 1937 and 1947. The following Charter was established in 1952, in view of the growing popularity of television and desire to open television broadcasting to competition. There was a supplemental Charter that extended the agreement until 1964 following the Pilkington Report, and there wasn't another Charter until 1981. It was delayed first by the hung Parliament of 1974, the need to complete the Annan Report of 1977 and then the 1979 General Election. The 1981 Charter was marked out for 15 years rather than 10. At this point the rough ten year gap has resumed, the following Charter being dated 1997, followed by 2007 and 2017 (The BBC Royal Charter Archive - https://www.bbc.com/historyofthebbc/research/royal-charter).

tends not to change very much, the intended interpretation can and does depending on the context. For instance, she reminds us that the wording of the 1927 and 1937 Charters are almost identical but the underlying contexts were not. The first Charter was to affirm the unique status of the BBC, in its utter infancy, as neither a commercial entity nor a 'creature of government' (Briggs 1995, I: 322f.). The second sees an already large, well-established BBC, in the context of the build up to war, where the political place of the BBC is seen as decisive – exactly how independent is it[74].

Charter renewals can be seen as a routinized political windows or as a focusing event (Howlett & Romesh and Cairney quoted in D'Arma 2018, 199), regular moments where the political external contexts are brought to bear on the workings of the BBC and function to refresh the expectations that government has, and the way that the BBC sees those expectations.

5.1.1. The BBC's Mission

The 2016 Charter, Article 3[75], reads:

> The Mission of the BBC is to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain.

[74] https://www.bbc.co.uk/programmes/p04y61zf

[75] The BBC's Mission has been one of the most consistent elements of the Charter. Despite the fact that it was not billed as the BBC's Mission until 2017 and has remained embedded in the preamble to the Charter until then, the wording has adjusted only slightly since 1927. In 1927 the focus was on 'education' and 'entertainment', not information; the question of quality was not explicitly raised, the service was aimed towards being exploited to the 'best advantage' and it was orientated towards the national interest, rather than the public interest. By 1937, 'information' had been added. There was no change in 1947, but the wording in 1952 shifted from 'national interest' to the 'interest of Our People's', underlining the extent to which BBC Services had expanded especially throughout the Commonwealth. There was no significant change until 2007 - the 'classic' formulation remained in the preamble, but Art 3(1) provides the BBC with a primary objective – 'to serve the public interest' along with a series of 'public purposes' in Art. 4. We will discuss these below. In 2017, the preamble remains unchanged, but in Art. 3, the Mission has been fleshed out to what we see above.

The Public Interest

At the heart of the BBC's Mission is the demand that it is to act in the public interest. But what does that mean?

Examination of the topic quickly demonstrates that there are widely divergent understandings of the concept[76], even to the point of denying that the public interest contains any meaningful content whatsoever (Schubert 1962). However, as Mayson says, 'in the absence of any clear sense of its meaning, emphasis and parameters, the concept might well be hijacked by narrower interests in a justification for the promotion of those interests' (Mayson 2013, 1). In other words, if there is no clear sense of what is meant by the public interest in a given context, all sorts of things may, without proper attention, be inserted into the conceptual space left vacant.

As it is, however, a clear definition is not forthcoming. The Charter does not spell out what it means by public interest and other related documents recognise the difficulty of defining, often judging it too vague[77]. Some clarity is offered in the Broadcasting Agreement (H.M.S.O. 2016a), which holds in Art. 8 holds that if the BBC is to consider any significant change, it must justify it

[76] There are certainly grounds to consider that 'the public interest' meets the criteria outlined by Gallie for an essentially contested concept - a concept which forms the basis of perfectly respectable argument, but where the concept itself remains subject to fundamental disagreement (Gallie 1956, 169).

[77] Beyond Art. 3, the term 'public interest' appears a further six times in the Charter – notably again in Art. 9, which holds that the first duty of the BBC is to act in the public interest. Art. 9 (2) points us towards the Mission and Public Purposes; (s)3 states that the BBC must fulfil its Mission and Public Purposes with regard to economic, social and cultural benefits and costs, but no further guidance is given as to what this indicates (HMSO 2016a).

Documents surrounding the Charter acknowledge the difficulty of defining the term. The Department for Culture, Media & Sport (DCMS) Public Consultation Document produced ahead of the 2017 Charter noted that 'representing public interest is complex', 'having to differentiate between interests of audiences, special interest groups, society… BBC consumers and the UK as a whole' (DCMS 2015, 68). The House of Lords Charter Review acknowledges that 'the notion of generally "serving the public interest" was seen as too vague'. It was proposed that this was to be 'replaced with a requirement to deliver 'single public value and be rigorously held to account for that delivery'. (House of Lords, 2016, 16).

with a 'public interest test'. In this test, 'the BBC must consider the scale and likelihood of any public value[78] relative to the scale and likelihood of any adverse impact on fair and effective competition' (Art. 8 (2))[79].

Stepping away from the BBC to consider how the idea is addressed elsewhere, we find an influential account of what constitutes public interest outlined by Banfield. He began with a very general outline (Meyerson & Banfield 1955, 322):

> "A decision is said to serve special interest if it further the ends of some part of the public at the expense of the ends of the larger public. It is said to be in the public interest if it services the ends of the whole public rather than those of some sector of the public"

[78] Public Value is a further term that has raised questions as to what it means (see 5.1.2.)

[79] There has been a significant and relevant application of the 'Public Interest Test' in the time since. In 2019, the BBC applied to extend the application of the iPlayer from simply being a catch-up service to being a streaming destination for audiences – where content had a limited time period of availability, it would remain accessible for far longer periods. In essence, it would function in a fashion far more similar to Netflix or other streaming services[79]. To do so, the BBC was required to perform a 'public interest test'. Considering the nature of this assessment and the justification that it offered in favour of these changes offers some sense of what is intended by 'public interest' by way of a consideration of public value (BBC 2019a).

The Public Interest Test has two primary components; that the changes contribute to the fulfilment of the BBC's Mission and Public Purposes; and, that reasonable steps have been taken to avoid adverse impacts on fair and effective competition, unless they are justified by the fulfilment of the Mission and Purposes (BBC 2019a, 67). Supporting the first component, section 5.1 of the BBC's Report considers 'personal value: reach and viewer benefits' and focuses on whether changes will meet audience expectations, provide good value for money for the license fee, and ensures relevance of the BBC services with audiences (BBC 2019a, 37). This would benefit audiences but also provide an uplift in reach and time spent' (*ibid.,* 40). Section 5.2 addresses 'social value'. Surveys of audiences suggested that the proposed changes would ensure that iPlayer was a better service for all users, not only themselves (*ibid.,* 43). The increased amount of content on iPlayer and available to be accessed by users is seen as means by which the second, third and fourth public purposes might be supported in that users would be able to access more educational content, more of the BBC's distinctive content and reflecting and representing everyone within the UK (*ibid.,* 44). Certain stakeholders consulted as part of the report felt that the proposed changes offered to support increased civic engagement, social cohesion and informing democratic debate (*ibid., 45*). Section 6 examined the impacts that the changes would have on the BBC's competitors. The BBC argued that while there would be some impact on competitors, these were necessitated by ensuring that iPlayer was fully able to meet consumer need (*ibid.,* 69-70). Upon assessment, Ofcom approved the BBC's proposed change (Ofcom 2019).

Banfield develops a taxonomy of public interest. It breaks into two broad categories, broken into a further five[80]. The two broad categories are:

A. Unitary Conceptions – 'The "whole" may be conceived as a single set of ends which pertain equally to all members of the public' (*ibid.,* 323); and

B. Individualistic Conceptions – 'Ends are those of individuals, whether shared or unshared. The ends of the plurality "as a whole" are simply the aggregate of ends entertained by individuals, and that decision is in the public interest which is consistent with as large a part of the "whole" as possible' (*ibid.,*324)

Banfield's taxonomy directly influenced Held (1970), who in turn was picked up by McQuail (1992) and Feintuck (2004). Held proposed three models: Preponderance theories, Common Interest theories and Unitary Conceptions. Common Interest theories 'assume the existence of interests common to all members of a society'; Preponderance accounts look to a majority'

[80] The two broad categories break into five more precise conceptions:

A. Unitary Conceptions – 'The "whole" may be conceived as a single set of ends which pertain equally to all members of the public' (*ibid.,* 323)
   - *i.* *Organismic* – Ends are entertained in a corporate capacity; ends that may be different than those shared by individuals. The focus is on the ends of the community, not individuals.
   - *ii.* *Communalist* – The ends recognised by society are shared universally, or almost so, by individual members. Those ends shared are more valuable than those not shared or not so widely shared.

B. Individualistic Conceptions – 'Ends are those of individuals, whether shared or unshared. The ends of the plurality "as a whole" are simply the aggregate of ends entertained by individuals, and that decision is in the public interest which is consistent with as large a part of the "whole" as possible' (*ibid.,*324)
   - *iii.* *Utilitarian* – The public interest corresponds to the utilitarian maxim 'the greatest happiness of the greatest number'. A calculation of the gains and losses is sought and the public interest is what corresponds with the highest number of gains. No end is made more valuable in itself by being shared, only calculations of utility.
   - *iv.* *Quasi-utilitarian* – Similar to *iii.*, except that the utility of some individuals may be calculated higher than others
   - *v.* *Qualified individualistic* – The ends are the aggregate of individuals' ends, but only from those ends that are considered appropriate. Which are or are not appropriate may be decided according to certain criteria: community rather than self-regarding, stable, not transitory, general rather than particular, focus on citizenship rather than other social role, frequent rather than infrequent, logically or morally justified rather than expressively justified.

(Feintuck 2004, 11). However, both sets of theories share the characteristics of Banfield's individualistic conceptions, in that they are aggregative and their weight is the interests of individuals, not society at large. However, a concern raised by Feintuck is that aggregative models only really inform us of what collectives of individuals think is in their interests, not what which values ought to be protected on their behalf. Furthermore, since the emphasis is on the 'sum of individual interests', it overlooks the reality of any collective in society – echoing the Thatcherite dictum of there being 'no such thing as society' (*ibid.,*12). Held, in particular, considers that a purely aggregative model of public interests is inadequate because, at the least, it fails to recognise the unborn members of that society, whose collective interests are worthy of consideration (Held 1970, 173). The third model – unitary conceptions of public interest – is distinct in that it is not orientated around aggregated individualist conceptions. Instead these models 'derive from a single unifying ethical value' (Feintuck, 11). While they run a risk of tending towards authoritarian or paternalistic characteristics (McQuail 1992, 25), they avoid the weaknesses of aggregative models, and are capable of providing a foundation for public interest grounded in citizenship and democratic values.

Feintuck asks what the function of the public interest is. He holds that there are different ways of coming at this. One is to offer legitimacy for public intervention into private activity. For instance, Ogus offers a series of potential public interest justifications for regulation (Ogus 1994, 29-46), including managing risks from monopolies and assuring the provision of public goods. At their heart, these justifications are fundamentally economic, since they are concerned, at their root, with the distribution of resources. However, says Feintuck, if we rely aggregative, individualistic models of public interest alone – in other words, to concentrate on

economic conceptions of public interest – the risk remains prevalent that the interests of dominant groups will obscure the interests of individuals and minorities (Feintuck 2004, 28)[81].

A second function[82], corresponding most directly to the Unitary model described above, and the one that Feintuck defends, is a 'democracy serving function'. In this he echoes the definition we began with (Banfield's), as well as Bodenheimer's starting point that 'the public interest must be understood as the genuine interest of the whole community and not as the camouflaged interest of an elite or minority actuated by totally self-serving goals' (Bodenheimer 1961, 211). He goes on to echo Alfred Verdoss, who pins the public interest on the existence of the *bonum commune*, which 'aims at neither the maximum satisfaction of individual desires nor at the promotion of collective utility or expediency, but at the establishment of social conditions under which individual persons are able to build, through industry and productive work, a life which is in consonance with the dignity of the human being' (*ibid.,* 213). The public interest must, at bottom, begin with the public, and the public is constituted by community and communities[83], and at the heart of addressing this is the means by which people come together to engage with

[81] Another criticism, not directed squarely at Ogus, but applicable all the same, is that our conception of the public interest ought not to be limited to things that justify regulation, but should be approached from the opposite direction – we should look at the ways in which regulation can protect and promote the public interest (Mayson 2013, 2). Putting this more concretely, we ought not regulate in favour of public goods like law enforcement because the market is ill equipped in their production, but rather that since public goods like law enforcement are necessary for the rule of law and protection of human rights, they are in our public interest and should be the object of regulation.

[82] Feintuck considers a further potential function of public interest as to view it as 'a contested arena' – that it forms 'part of the deliberative context which we are entitled to expected to find at the heart of a liberal-democratic system' (*ibid*.). In other words to view discussions of the public interest, drawn, as they typically are, from preponderance and common interest theories, as competing goals and ends. Bailey describes how the public interest can be used as a means of teasing out the key issues embedded in otherwise apparently intractable and difficult political dilemmas. He writes that the public interest 'is the central concept of a civilized polity. Its genius lies not in its clarity but in its perverse and persistent moral intrusion upon the internal and external discourse of rulers and ruled alike' (Bailey 1961, 106). However, this empties public interest of any inherent value and does little to extend debate. Furthermore, the arena is insufficiently protected from 'already dominant economic and political forces' and will be 'distorted by pre-existing economic and political inequalities and the weight of market forces' (Feintuck 2004, 29).

[83] It is important to recognise, with Barry (1961), and with subsequent political philosophers such as Taylor, Sandel and Young (who we will discuss later in the study), that in a pluralistic society, we are not addressing a single community, but a number of (sometimes conflicting) communities. This does not undermine the role of the public interest, as the public interest can reflect and support the role of pluralism, as we are describing.

others, to deliberate, and to find and express their voice. Finally, a similar position is developed by Cohen. When asked what the 'public interest' means to lawmakers, he proposes that it possesses a dual function. It holds a primary function of 'explicating the meaning of the established basic values of the community', but also a second, instrumental sense of assessing whether a policy was indeed in the public interest. But at it's heart public interest is concerned with the system of basic values that bind the community together. He continues: (Cohen 1961, 156f.):

> "They are values held by humans; they concern the relational aspects of man in his social capacity; they are shared by humans, and in this sense take on the aspect of common or community values. The basic values may relate to substance as well as to the rules of the game – e.g., to ideals of human well-being, to fundamental methods for achieving them, and to basic procedures for resolving disputes when disagreement and conflict concerning means as well as ends arise. They ultimately determine what satisfactions are to be sought, who are to be satisfied, and at whose expense. ...What makes them community values is acquiescence in them by its members, either overtly, implicitly, reluctantly or by default."

So to sum up, what we talk about when we discuss public interest are interests that extend to the whole of a particular community (typically defined geo-politically), and not to some proportion – even a majority - of it; we speak of the values of that community – values that may include but are not limited to the economic or market orientated in that they extend to human dignity and human rights. We might add to this, following Held, but also echoing Edmund Burke's saying that society is partnership 'not only between those that are living, but between those who are living, those who are dead, and those are to be born' (Burke 1790, 327) – in other

words, the public interest extends beyond those currently capable of expressing interests, but operates on behalf of those who will express an interest in the future[84].

And it is also plain that considering public interest is relevant for our examination of the BBC's deployment of recommender systems. Recommender systems are optimised for certain outcomes. In the commercial realm, they are typically optimised for sales or clicks or time – fundamentally, an outcome in the interests of the organisation who are deploying the system in the first place. If the BBC is obligated to promote the public interest, then this must also be reflected in their deployment of recommenders.

To Inform, educate and entertain

Having considered the role of public interest in the BBC's Mission, I want to briefly turn to the rest of the statement. First, we should note that the remainder of the Mission ought to be seen through the prism of the first clause and that the public interest is the primary objective of all components. The second clause of the sentence, 'serving all audiences through the provision of impartial, high-quality and distinctive output and services' certainly echoes this in specifying that the output and services should be impartial – impartiality taken as showing no favour to any particular sub-section of the community or even a majority of it. We will make some comments on impartiality and distinctiveness in the following section, concentrating on the BBC's Public

[84] When we return to review public interest as it is presented in the Charter and to pause to reflect on what this means for the BBC's responsibilities, we recall the sense given in the 'public interest test'. Of the four criteria offered, we see the third gaining the most momentum in the discussion that has followed. Public interest viewed this way resists reduction to individualistic or aggregative frameworks and the ideals of civic engagement, social cohesion and democratic debate appear to precede any other way of trying measure what people might declare an interest in. That said, we should not dismiss the other three criteria; given that the BBC's audience is, at least notionally, the whole community, 'ensuring relevance' is plainly of value, ditto 'a better service for all'. Even 'fair and effective competition', which lends itself to a purely economic interpretation, to the extent that it can be said to promote media pluralism - see Haraszti (2011), who states baldly, 'the basic human right to freedom of expression and information cannot be properly exercised without the presence of a large number of rival media outlets which are free from the domination of political or commercial interests'.

Purposes (5.1.2.). However, here I will concentrate my attention on the final three words of the BBC's Mission – to inform, educate and entertain[85].

The role of informing is crucial to the notion of the public interest. It is central to the capacity that individuals have for democratic involvement, As we will discuss in more depth elsewhere – namely, regarding Freedom of Expression and Public Service Broadcasting – unless people have access to reliable information they are severely compromised in their ability to develop accurate and meaningful positions on the concerns that they face in their political lives. In an environment where trust is elusive and is declining in relation to political leaders and institutions as well as the media (Edelman 2021, 9, 12, 19, 24-25), it is imperative that the BBC, if it is to fulfil the Mission as described is seen as a reliable source of information. As it stands, the BBC is one of the most trusted media brands in the UK. In 2020, Ipsos stated that 62% of UK residents considered it the most trustworthy source of news[86].

Regarding the imperative to 'educate', the BBC has demonstrated a commitment to education longer even than it has been in existence. Even before incorporation in 1924, the British Broadcasting Company was experimenting with schools broadcasts, and these were established properly by 1926 (Briggs 1995: I: 239). Since then, education has remained a key dimension of the BBCs Mission, especially in bringing education opportunities to those that might otherwise be less likely to receive them. The BBC played an integral role in establishing the Open University and continues to aide children's education online through BBC Bitesize[87],

[85] In their evidence given to the House of Lords Select Committee for the BBC Charter Review, the National Union of Journalists spell out that one of the primary strengths of the tripartite function of the BBC, to inform, educate and entertain is that it is well known and understood by the BBC and the public alike (House of Lords 2016, 19, n.26).
[86] ipsos.com/en-uk/bbc-most-trusted-news-source-2020. Reuters gave a more nuanced picture: while in 2019, it received the highest trust ranking amongst political centrists, respondents who identified as left or right wing gave the BBC lower rankings and preferred other news sources (https://reutersinstitute.politics.ox.ac.uk/news/bbc-under-scrutiny-heres-what-research-tells-about-its-role-uk)
[87] https://www.bbc.co.uk/bitesize

as well as less formally through BBC Ideas, which aims at fostering individuals' curiosity[88]. Continuing educational experiences, both formal and informal, is, quite simply, good for people and communities (Hughes & Adriaanse 2017, 14ff.) and there remain significant obstacles to people being access them in their working lives (*ibid.,*), especially amongst minority communities (CRRE 2021). The BBC holds a powerful position in opening up the world of education for individuals.

Despite Reith's suspicion of pure entertainment (Reith 1924, 17f.), entertainment has continued to play a major part of what the BBC does. However, the echoes of Reith continue to reverberate in the BBC's offering, for it is rarely *just* entertainment. As the BBC's Charter Review explains, 'audience to BBC entertainment programmes have high expectations that they will 'learn something new' from what they are watching' (BBC 2015, 79).

The Charter Review continues to highlight the responsibility and commitment that the BBC has to 'entertain the whole of the UK' (*ibid.*, 82); not only representing the diversity of the UK in respect to the content it produces but ensuring that the various geographic, as well as cultural, communities of the UK experience stories and content that speaks to them. This extends to the representing and broadcasting in the 'UK's indigenous minority languages' (*ibid.*).

5.1.2. The BBC's Public Purposes

The public purposes made their first appearance in the BBC Charter in 2007 – they were introduced explicitly as a set of standards that the BBC would need to meet, but that could also be monitored and so would afford a greater sense of accountability for the BBC (House of Lords, 2016, Appendix 6). They were introduced with a view to demonstrating to what extent the BBC was providing 'public value'.

Public Value

[88] https://www.bbc.co.uk/ideas/

‘Public Value’, as a distinct concept, was framed and developed by Moore in 1995. At its heart it is a philosophy of public management. It seeks to identify and develop what Moore calls ‘managerial imagination’. Public managers have often tended to maintain a downward focus – to concentrate on the job that they have been mandated to perform. As such the focus is limited and rarely offers the public all that could be achieved by their role. Coupled with this is the insight that government creates value. So the purpose of managerial work in the public sector is to produce public value (Moore, 1995, 29). If managers can be directed or encouraged to engage ‘managerial imagination’, government departments and public authorities, in their development of services and drawing up of policies, will be able to produce more public value.

But what sort of value? We cannot assess this value in the same sorts of terms that we see in the economic marketplace of consumers – value in this context is governed by price mechanisms. Instead, value is seen in the context of the political marketplace of citizens and the collective decisions of representative democratic decisions (*ibid.,* 31). Nonetheless, these values do need to be traded off against the costs that are accrued – the costs of private consumption and unrestrained liberty forgone. Moore spells out the differences between seeing value in respect to the private marketplace governed by price mechanisms and seeing it in the political sphere of public value: consumers are not only spending money, but they are often spending the freedom in that they are ‘authorising the government to act on their behalf’; the consumer is not just buying on their own behalf, but they are buying on behalf of the whole community; ‘they are buying whole enterprises rather than individual products of the enterprise’ (*ibid.*, 48).

To come at this again, Moore lays out a definition of public value. He begins with an axiom: value is rooted in the desires and perceptions of individuals. Whether we are engaging with valued things found in the private marketplace or in public spheres of public goods or even of principles and ideologies, values are grounded, in the final analysis, in what individual people desire and

perceive. There is no sphere of value that is to be found outside of that. In respect to public value, Moore identifies various types of desire to satisfy including 'collective things that are individually desired but cannot be consumed through market mechanisms because the product cannot be divided up and sold', and 'political aspirations that attach to aggregate social conditions such as a proper distribution of rights and responsibilities between public and private organisations' (*ibid.,*53). Examples of the first types would be various public goods, such as security, law enforcement, education, health care, and importantly for us, broadcasting. Even though strictly they can be provided by the private marketplace, there are significant benefits from placing them in public hands. Examples of the second would be principles such as justice or human rights. So 'managers of public sector enterprises can create value' and there are two primary ways that this happens: they may spend resources, including their authority, to produce the things that are desired and have value, alternatively, they may establish or operate institutions that meet those desires and produce value (*ibid.*). In the end, what is 'bought' from public managers by the public is an account of an enterprise – 'a story contained in a policy'. Moore suggests that in a similar way that a prospectus is to an entrepreneur, laying out to potential investors what is proposed and anticipated, a policy is to a public manager, pointing citizens to the possibilities of a policy, as well as its costs and benefits (*ibid.,*54). Citizens are then drawn to choose between and approve these policies in the processes of democratic elections, as well as to consider whether they have delivered on what was promised. In sum, 'public managers create public value' (*ibid.,* 57).

Picking up from Moore, in 2002, the UK Government commissioned a report into public value. It considered that, much like in the private market, user satisfaction is critical to public value (*ibid.,* 11). Various factors shape this; customer service, information, choice, the extent to which the service is seen as important, but also the ethos and culture of the organisation – if an organisation is seen as having a positive set of values or a positive ethos, it is more likely to be seen as producing value (*ibid.,* 11-14). The report highlights the values of fairness, trust and

legitimacy, as well as the outcomes produced by the organisation and policies pursued (*ibid.*, 15-20). The report concluded that 'public value offers a broader way of measuring government performance and guiding policy decisions. Taking this holistic approach, looking at the totality of the impact of government, could help to improve policy decisions – and improve the relationship between government and citizens' (Kelly et al. 2002, 35). More simply, a key element of Moore's view of public value is that we are able to form an answer to the questions 'how do we know when a policy or service has been successful?' Being able to answer this question helps build trust between the organisation and the public, in turn supporting its authority and legitimacy.

In more recent studies on public value, attention has been directed towards widening the scope for public value. Mazzucato et al. argue that much of the value that comes from public agencies has less to do with market fixing, making up for the failures of the market, and more to do with market shaping (Mazzucato et al. 2020, 18). By market shaping they point to the opportunities public agencies and organisations have in actively directing and influencing the ways and means by which specific markets operate. This suggests, in fact, that public value is not only

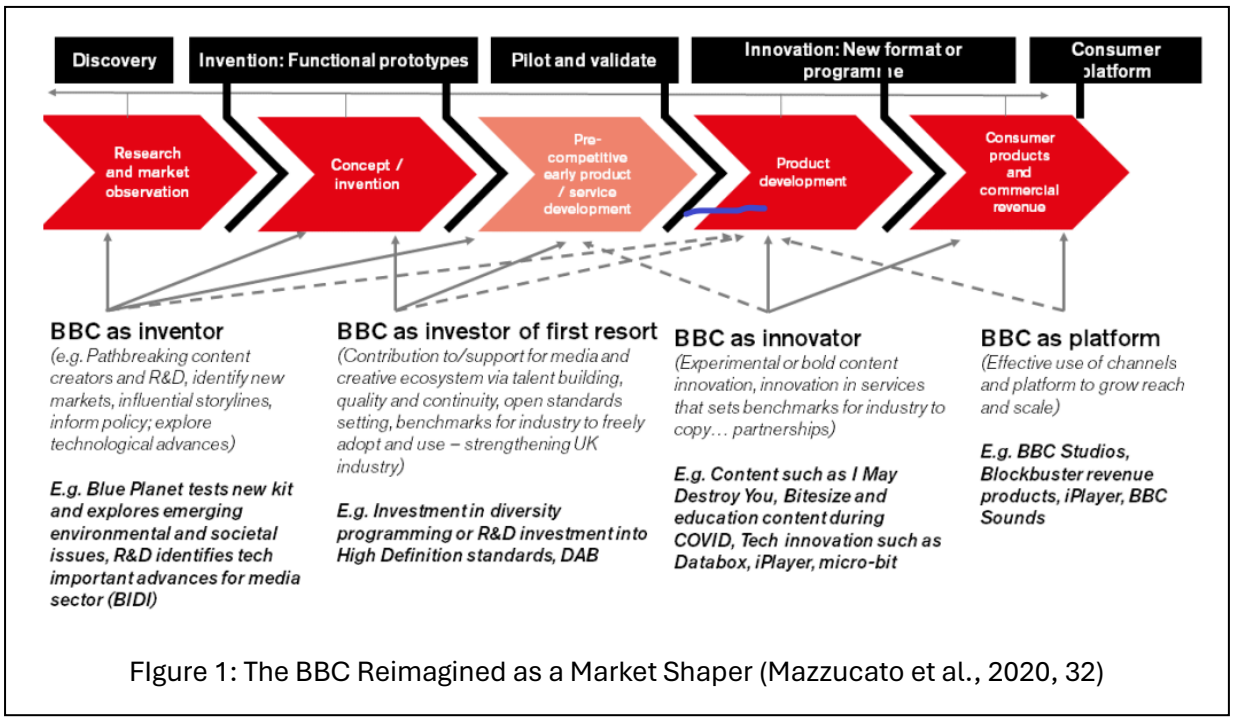

FIgure 1: The BBC Reimagined as a Market Shaper (Mazzucato et al., 2020, 32)

greater when public activities are seen this way, but is amplified, providing benefits for individuals, the wider society and the economy (Mazzucato 2018, 243). Specifically pointing to the BBC, the authors highlight the number of ways that the BBC has performed as a market shaper (see Figure 1.; Mazzucato et al., 2020, 33-37). For instance, they note the degree by which the BBC has been integral at creating and developing content – for instance, *Strictly Come Dancing*, a genre that has been picked up and repeated in media markets around the world[89].

Public Purposes

[89] Two years later, the BBC Charter Review in the run-up to the next Charter renewal picked up this mantel and presented itself as a producer of public value, naming the review '*Building Public Value: Renewing the BBC for a Digital Age'* (BBC 2004). The Report is dominated by the theme of public value throughout, but Chapters 1 and 3 in particular are set to face the BBC in the direction of how it can demonstrate public value. The Report explicitly cites Moore and Kelly, and in doing so frames public value in respect to value to people as individuals, value to the wider society – conceiving people as citizens, and value to the wider commercial market – an economic value (BBC 2004, 29). With this in mind, the Report sees the BBC contributing to public value in five ways (*ibid.,* 30):

- Democratic value: the BBC supports civic life and national debate by providing trusted and impartial news and information that helps citizens make sense of the world and encourages them to engage with it
- Cultural and creative value: the BBC enriches the UK's cultural life by bringing talent and audiences together to break new ground, to celebrate our cultural heritage, to broaden the national conversation.
- Educational value: by offering audiences of every age a world of formal and informal educational opportunity in every medium, the BBC helps build a society strong in knowledge and skills.
- Social and community value: by enabling the UK's many communities to see what they hold in common and how they differ, the BBC seeks to build social cohesion and tolerance through greater understanding.
- Global value: the BBC supports the UK's global role by being the world's most trusted provider of international news and information, and by showcasing the best of British culture to a global audience.

These five modes of public value are reframed subsequently in the review as the public purposes, which we will turn to directly below. Before we do so, I want to briefly address the way that the BBC proposes to demonstrate public value. A new performance measurement framework was adopted in the report, which was based around four criteria: reach, quality, impact and value for money. These are summarised in Table 1 in the report. Reach is the BBC's headline indicator (BBC 2004, 88). It is easily quantifiable and can be measured across different user groups. Quality is harder to measure but will be sought using periodically carried out surveys commissioned by the BBC's Board of Governors. Impact will be assessed using similar methods to those developed by PBS in the USA – the Points of Impact Beyond Broadcast measure, which tracks usage such as school usage or whether the content or services were nominated for or won any awards. Value for money will look at the comparative costs of content production against the viewer's willingness to pay.

1) **To provide impartial news and information to help people understand and engage with the world around them**

The BBC should provide duly accurate and impartial news, current affairs and factual programming to build people's understanding of all parts of the United Kingdom and of the wider world. Its content should be provided to the highest editorial standards. It should offer a range and depth of analysis and content not widely available from other United Kingdom news providers, using the highest calibre presenters and journalists, and championing freedom of expression, so that all audiences can engage fully with major local, regional, national, United Kingdom and global issues and participate in the democratic process, at all levels, as active and informed citizens.

The delivery of news and information is key to the Mission of the BBC – we have already noted above (5.1.1.) something how central the place of 'to inform' is for the playing out of its mission. Furthermore, as the Charter goes on to say, 'championing freedom of expression' is a necessary foundation for democratic deliberation. We will discuss freedom of expression further below.

What is worth noting is the emphasis being placed on the role of impartiality. It is specified clearly in the Public Purposes. The BBC's Editorial Guidelines are very clear that impartiality 'is fundamental to its reputation'[90]. If we consider the sequence of content in these guidelines as indicating a set of priorities for the BBC, then only accuracy is seen as more important[91]. The Guidelines state:

[90] https://www.bbc.co.uk/editorialguidelines/guidelines/impartiality/

[91] This is not the time or place to wade into the debate and try to form some definitive conclusion, but I do want to draw attention to conversations right now as to whether the BBC *is* impartial. The upcoming Mid-Term Review for the BBC has been directed in part to considering the degree to which the BBC is upholding its impartiality responsibilities (Ofcom 2022, 4-5), and the BBC, following the findings of the Serota Report (carried out by Nicholas Serota of the BBC's Board of Governors), has reaffirmed its commitment to renew the BBC's commitment to impartiality as its first strategic priority (BBC 2021c). The question is, of course, whether the BBC is failing to be impartial, particularly in its political reporting.

Due impartiality usually involves more than a simple matter of 'balance' between opposing viewpoints. We must be inclusive, considering the broad perspective and ensuring that the existence of a range of views is appropriately reflected. It does not require absolute neutrality on every issue or detachment from fundamental democratic principles, such as the right to vote, freedom of expression and the rule of law. We are committed to reflecting a wide range of subject matter and perspectives across our output as a whole and over an appropriate timeframe so that no significant strand of thought is under-represented or omitted.

2) To support learning

The BBC should help everyone learn about different subjects in ways they will find accessible, engaging, inspiring and challenging. The BBC should provide specialist educational content to help support learning for children and teenagers across the United Kingdom. It should encourage people to explore new subjects and participate in new activities through partnerships with educational, sporting and cultural institutions.

The BBC has been involved in the promotion of education and learning since its earliest days. Reith enthusiastically encouraged broadcasting in schools from the 1920s (Briggs 1995), and, of course, Reith's own philosophy, drawn from Matthew Arnold sought to expand the reach of learning and education as a means of assuring culture (Reith 1924; Arnold 1869). These impulses have not dimmed. In the 1960s, the BBC has heavily involved in the establishment of the Open University and in the digital era, the BBC has supported people in education through its Bitesize provision[92].

Moore & Ramsey observe that 'The BBC therefore finds itself in the unenviable position of being accused of political bias both by old and new media on the right and by new media on the left'[91](quoted in Mills et al., 2020). Mills draws the conclusion, supported by a long list that share the conclusion, that the BBC is orientated less towards this or that party, but towards 'officialdom and elites' (Mills et al. 2020, 24).

[92] https://www.bbc.co.uk/bitesize

What counts as education and learning is expansive, of course, including what the point of it is. In their overview of the issues Siegel et al. propose 'the production of knowledge and knowledgeable students, the fostering of curiosity and inquisitiveness, the enhancement of understanding, the enlargement of the imagination, the civilising of students, the fostering of rationality and/or autonomy, and the development in students of care, concern and associated dispositions and attitudes' (Siegel et al. 2018, 12). Any list like this is open to debate and refinement but the basic issue is plain, education possesses a range of purposes. Furthermore, and what is not included in this list, is the degree to which education ought to include civil education, which has been promoted in some shape or form since the Greeks and is reflected in the view that healthy civic virtues promote a healthy political community and also that participation in one's community constitutes something vital of the good life (Crittenden & Levine 2018, 7).

Given the way that learning is framed in the public purposes, as well as the ways in which it is implied in the first and fourth, we are justified in reading learning and education as presented in this purpose in the broadest sense. For instance, the first purpose holds that the BBC is to promote understanding and to prepare them for engagement with the democratic process, and the fourth purpose aims to reflect and represent the diverse communities of the United Kingdom. These strongly imply a wider, life-long, cultural and civic understanding of the learning the BBC is set to support[93].

[93] Hoggart, writing in 1960, points to the breadth of the educative commitment of public service broadcasting, including the degree to which it extends to modes of civic education, when he recalls the contemporary television show, *Dixon of Dock Green:*

*"*Dixon of Dock Green is probably a more powerful force in general education than a whole range of evening institute classes in non-vocational subjects. This slightly transmogrified documentary is written by a man with a good ear for the surface of current speech and manners, and an unusual responsiveness to the more evident contemporary tensions. Each instalment is really a dramatized secular parable played by characters who have a kind of life. And all the time, consciously or unconsciously, it is trying to ameliorate manners. I don't mean through the direct injunctions of P.C. Dixon himself (watch your step when you cross the road) but in its whole dramatic presentation of the police.' (Hoggart 1960, 155)

3) To show the most creative, highest quality and distinctive output and services

The BBC should provide high-quality output in many different genres and across a range of services and platforms which sets the standard in the United Kingdom and internationally. Its services should be distinctive from those provided elsewhere and should take creative risks, even if not all succeed, in order to develop fresh approaches and innovative content.

We have already commented on Reith's desire that the BBC present 'the best of everything' (section 4.2.5) and how this suggested not simply acquiescing to public tastes. It is notable that two of the eight principles deployed by the Broadcasting Research Unit of public service broadcasting concern reliably producing high quality, 'good' programming. The seventh principle holds that 'broadcasting should be structured so as to encourage competition in good programming rather than competition for numbers' and the eighth that 'public guidelines for broadcasting should be designed to liberate rather than restrict the programme makers' (Broadcasting Research Unit 1986, 15, 19).

The former follows the urges of Reith and Pilkington that good programming is not to be found by simply giving people what they want. However, it reaches further in that it is not solely preaching paternalism but suggesting something like the adage that a rising tide raises all boats – if the BBC avoids the temptation to simply repeat what has already been shown to attract viewers and listeners, but reaches out to produce content that is innovative and adventurous, it will provoke other producers to, at best, do the same, or at worst, adapt to the new. This is a challenge that the BBC has sought to meet – examples can be seen in the development of shows like *Strictly Come Dancing, The Great British Bake Off* or *The Office,* programmes or

A similar thought is pursued in Curran (1991).

formats that have been picked up and developed directly or indirectly by other domestic or overseas producers (Goddard 2017, 1094f.). The latter recalls the advice from Pilkington that 'good legislation for broadcasting … says 'thou shalt not' much less often than it says 'thou shalt'' and that 'living space' should be provided 'for programmes that do not or do not at the start attract large audiences' (Hoggart 1993, 66). The drive here is that the BBC ought not to be either overly cautious or chasing audiences, but to be willing to take risks, potentially break rules and be innovative.

These themes have surrounded the discussion that has emerged with the inclusion of the imperative to be 'distinctive', which was not included in the 2006 iteration of the BBC Charter. It appeared prominently in the public consultation document prepared by the Department of Culture, Media and Sport (DCMS) in 2015, where the question was asked: 'is the BBC's content sufficiently high quality and distinctive from that of other broadcasters? What reforms could improve it?' (DCMS 2015, 22). The concern was that the BBC might be competing for ratings over quality or 'distinctiveness' (*ibid.,* 30)[94]. No definition of the term was included in the consultation. In 2016, the BBC offered their own: distinctive content would show 'creative and editorial ambition', 'high editorial standards', 'range and depth' and a 'high level of first run UK originated content' (BBC 2016, 11). Later that year, the DCMS, in the Charter Review White Paper, entitled 'A BBC for the future: a broadcaster of *distinction*' [*emphasis added*], the term is defined as the 'requirement that the BBC should be substantially different to other providers

[94] Goddard (2017) suspects that the elevation of distinctiveness brings the discussion into a direct relationship with the commerce of media, that the real issue is market impact – the degree to which the BBC develops high rating television shows that could be said to threaten or weaken the market position of other media producers. This is what James Murdoch appeared to have in mind when he stated baldly that 'rather than concentrating on areas where the market is not delivering, the BBC seeks to compete head-on for audiences with commercial providers with commercial providers to try and shore up support – or more accurately dampen opposition – to a compulsory licence fee.' (Murdoch 2009, 15 - http://image.guardian.co.uk/sys-files/Media/documents/2009/08/28/JamesMurdochMacTaggartLecture.pdf) – the implication being that the BBC ought to concentrate wholly on responding to areas of market failure. The BBC responds to this by pointing to their other priorities such as universality or producing shared experiences, but most fundamentally, by producing content with high ratings, content that people want to watch or listen to, the license fee has a stronger case for justification (BBC 2016, 11).

across each and every service, both in prime time and overall, and on television, radio and online, in terms of: the mix of different genres, programmes and content; the quality of output; the amount of original UK programming; the level of risk-taking, innovation, challenge and creative ambition; and the range of audiences it serves.' (DCMS 2016, 32)[95].

4) **To reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions and, in doing so, support the creative economy across the United Kingdom**

The BBC should reflect the diversity of the United Kingdom both in its output and services. In doing so, the BBC should accurately and authentically represent and portray the lives of the people of the United Kingdom today and raise awareness of the different cultures and alternative viewpoints that make up its society. It should ensure that it provides output and services that meet the needs of the United Kingdom's nations, regions and communities. The BBC should bring people together for shared experiences and help contribute to the social cohesion and wellbeing of the United Kingdom. In commissioning and delivering output the BBC should invest in the creative economies of each of the nations and contribute to their development.

[95] The BBC's defence of its distinctiveness can be seen in BBC 2015, 12-25. An essential component of the concern for distinctiveness extends to the BBC's online content and beyond that to the services that have developed since the last Charter renewal, namely, key to our study: iPlayer and Sounds, which were both in their infancy in 2016, and to the recommenders being deployed in BBC News.

Cushion (2022) affirms that the BBC does achieve a clear degree of distinctiveness in its news output. He writes:

> "Across TV, radio and online, we found almost all BBC news outlets and most commercial broadcasters selected far more informative news topics than entirely market-driven media. BBC News online, for example, covered topics such as politics and international affairs whereas the Daily Mail, Sun and Mirror featured more entertainment and celebrity stories. The value of public service media was also demonstrated on the United Kingdom's nightly television news bulletins. Most of them shone a light on the world not often covered by market-based media, notably the BBC's News Ten. Overall, this systematic comparative study of news topics revealed public service broadcasters supplied more informative news about political, social and economic issues both domestically and internationally than market-driven media." (Cushion 2022, 17)

In section 3.2.1., we have already commented on the challenges that recommender systems face in promoting diversity. Similarly, in section 4.2.2., we have already reflected on the central role within public service broadcasting of responding to questions of diversity – that public service broadcasters have a responsibility to serve all groups within the broader community – not only to speak to those groups, but to allow those groups to speak such that they are seen. As such, broadcasters bring the whole community together, in view of and in dialogue with each other. Furthermore, in section 6.3.3., we will return to questions of diversity in the analytic framework, reflecting on the importance and central value of recognising difference between groups, even as we strive to recognise our common values.

In its Annual Report, the BBC is keen to demonstrate that it is seeking to uphold and continue to pursue this purpose. It reports that around three-fifths of UK adults hold that the BBC has programmes, content and services that raise awareness of the different ways of life and perspectives in UK society and is effective at providing content and services relevant to them (BBC 2023a, 29, 34).

5) To reflect the United Kingdom, its culture and values to the world

The BBC should provide high-quality news coverage to international audiences, firmly based on British values of accuracy, impartiality, and fairness. Its international services should put the United Kingdom in a world context, aiding understanding of the United Kingdom as a whole, including its nations and regions where appropriate. It should ensure that it produces output and services which will be enjoyed by people in the United Kingdom and globally.

Our attention is typically drawn to the BBC as a UK institution, but this purpose reminds us that it has a worldwide footprint. Over 447 million people globally are reached by BBC services and is ranked No. 1 for trust and reliability amongst international news providers (BBC 2023, 40).

The primary way that the BBC meets this purpose is through the BBC World Service. The BBC World Service Licence, agreed between the BBC and the Current Foreign Secretary, holds that the BBC should do the following (BBC 2018, 2):

- Ensure it provides high-quality news coverage to international audiences, firmly based on British values of accuracy, impartiality, and fairness;
- Deliver services that provide audiences with a global perspective on the world, not one based upon any national or commercial interest;
- Serve as an independent and trusted guide as access to information grows, helping audiences understand the world around them and make sense of competing views;
- Provide a range of content and output across its services to reflect the United Kingdom, its culture and values to the world, including its Nations and Regions where appropriate, and to place the United Kingdom in a world context;
- Provide opportunities for an ongoing global conversation that promotes greater understanding across national boundaries, languages and media;
- Enhance the quality and breadth of all BBC output by working with other BBC services to aid international understanding and provide global perspectives; and
- make available to licence fee payers in the UK such of its content as it deems appropriate.

Perhaps the most valued dimension of the BBC's global role is in the potential it has to deploy what is sometimes called 'soft power'[96]. The BBC claims that it is the most well known and influential of the UK's cultural exports[97].

5.2. Ofcom's Broadcasting Standards Code

Our next step is outlining the BBC's regulatory duties. Presently, the regulator of the BBC is Ofcom, so we must briefly examine the Broadcasting Standards Code and summarise the means by which Ofcom regulates the BBC, making brisk note of the sanctions it has available if it judges the BBC to have failed to fulfil its duties. Annex 4 offers a brief history of the regulation of the BBC and Ofcom.

The Standards Code were initially presented in 2005 but they have been updated a number of times since then, most recently 2020[98]. I do not propose to examine in detail or discuss the various sections of the code here – some sections will be revisited in greater detail when we turn to consider the general laws that the BBC must uphold, especially since the basis for Ofcom's Code is to be found in them. In summary:

1. **Protecting the under-eighteens** – Material should not impair the development of under 18-year olds, and with this aim there must be a watershed, or appropriate measures to ensure their protection. This includes use of drugs, tobacco and alcohol, violence and dangerous behaviour, offensive language, sexual material, exorcism and the occult.

96 Defined by Nye as 'A country may obtain the outcomes it wants in world politics because other countries – admiring its values, emulating its example, aspiring to its level of prosperity and openness – want to follow it. In this sense, it is also important to set the agenda and attract others in world politics, and not only to force them to change by threatening military force or economic sanctions. This soft power – getting others to want the outcomes that you want – co-opts people rather than coerces them' (Nye 2004, xxxx)

97 https://www.bbc.co.uk/aboutthebbc/documents/research-the-impact-and-influence-of-the-bbc.pdf Especially page 10

98 https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code

Particular care must be taken in the coverage of offences that involve under-18s, and also when involving people under 18 in programming.

2. **Protecting people from harm and offence** – Factual programmes ought not to materially mislead audiences. Material which might cause offence should be justified by context (examples of such material is given). Violence, dangerous behaviour and suicide must not be condoned or glamorised, and suicide should not be detailed. Content concerning exorcism, the occult or the paranormal must be treated with due objectivity, hypnotic or similar techniques must be treated responsibly, and people's involvement in competitions must be fair with clear rules.
3. **Material likely to encourage or incite crime or disorder is not included** – Such material includes criminal action, terrorism or hate speech and abuse. Portrayals of crime and criminal proceedings must not include details that might enable repetition. Criminals must not be paid for content related to their crime.
4. **Broadcasters must show proper amounts of responsibility for religious programmes –** They must not be abusive or attempting to attract recruits by stealth, nor exploit susceptibilities of the audience
5. **News must be accurate and presented with due impartiality** – The 'due' suggests an appropriate degree of impartiality, not that any and all positions must be represented equally. Mistakes and corrections should be acknowledged and scheduled quickly. The personal views of reporters and presenters should be kept at a distance from reporting the news and made clear to the audience, politicians should not sit as newsreaders unless exceptionally justified. Particular attention in these regards should be given to matters of political and industrial controversy.
6. **Extra care and attention regarding due impartiality is demanded during elections or referendums** – Coverage of political parties and viewpoints must be appropriate and

due weight given to designated organisations. Discussion and analysis and further consideration of opinion polls cease when polls open.

7. **Broadcasters avoid unjust or unfair treatment of individuals and organisations** – Broadcasters should inform contributors fully of proceedings and expectations, and where under 16 or unable to give consent, parents or care providers should be consulted. Broadcasters should avoid factual misrepresentation in both factual programming and in dramas and be fair in its treatment of persons and organisations, even when historical. Allegations of wrongdoing should allow a right to reply. Broadcasters, when seeking to obtain participation should not normally resort to deception or misrepresentation, unless there is a public interest justification.
8. **Broadcasters must avoid any unwarranted infringement of privacy –** Infringements of privacy should gained only with consent unless warranted, including the location of the home or family. If a person requests that a recording is stopped, the broadcaster ought to comply, unless warranted. Care must be taken in the re-use of material. The recording of telephone calls is permissible if the broadcaster has identified themselves and the purpose of the call, unless it is warranted. People caught up in emergencies, accidents or suffering, should not be filmed and broadcast unless warranted or consent given. Identities of people who have died should not be broadcast until it is clear that the next of kin has been informed.
9. **Broadcasters must maintain editorial independence, ensuring a distinction between programming and advertising** – Commercial references must not be promoted in programming, including surreptitiously, ensuring clear editorial control. Product placement is prohibited in news, children's, religious, consumer affairs and current affairs programming. Product placement on behalf of tobacco products (including e-cigarettes), prescription medicines, alcoholic drinks, foods high in fat, salt

or sugar, gambling, baby milk. News and Current affairs programming must not be sponsored.

10. **Radio broadcasts must be transparent in regards commercial communications –** This section concerns radio broadcasts only. Where there are commercial arrangements for a programme, these must be appropriately signalled; advertisements must be kept distinct from programming. No commercial reference that implies a commercial arrangement may be present in news or current affairs programming, nor may they be present in children's programming. Commercial arrangements that amount to payment for some valuable consideration – i.e. pay for play – are prohibited.

5.3. General law

Beyond the responsibilities that are contained in the Charter, related documents such as the BBC's Licence Agreement, and the Ofcom Regulations, which are all specific to the BBC and define precise obligations that the BBC must adhere to, there are general legal obligations that apply to the BBC and that the BBC must fulfil to be considered responsible. These also apply to other organisations, whether other media organisations or individuals and organisations in general. Of course, many of these have little to do with our chief concerns in this study. No light is shed by noting that the BBC is subject to laws regarding homicide, for instance.

In this section we will focus our attention on two areas in particular: freedom of expression, privacy and data protection, although there is significant overlap between the latter two.

5.3.1. Freedom of Expression

At its most straightforward, this is a freedom right guaranteeing an individual the right to express their own thoughts to other people – it is typically held to be synonymous with freedom of speech. However, in discussing the idea, it has been framed in multiple ways. Emerson saw its function as to assure individual self-fulfilment, attaining the truth, a means of 'securing

participation by the members of the society in social, including political, decision-making', and upholding the equilibrium between 'stability and change' in society (Emerson 1963, 879). More recently, Barendt considered it in similar terms: free speech as a means to discovering truth, free speech as an aspect of self-fulfilment, free speech as a precondition of participation in democracy, and finally, free speech as means of expressing suspicion of government (Barendt 2005, 6-23). I am primarily concerned with thinking about freedom of expression as integral to democratic wellbeing, but I recognise that any and all applications are potentially relevant.

There has been some debate as to how much of a history[99] the right has had in UK law. *R. vs Shayler*[100] suggests that it has had a long history in common law, whereas Robertson & Nicol are more doubtful (2007, Chapter 1; see also Barendt 2009, 851)[101].

[99] Tracing the history further back, Koltay (2019) detects roots of the idea in Milton, who defended a free press on the grounds that God granted humans both freedom and reason, and books were an expression of that reason. So, to destroy a book is to destroy reason, and to kill the image of God in man. He wrote: 'Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties…' (quoted in Koltay 2019, 9). Mill is often considered foundational in discussions of freedom of speech and expression. At the heart of Mill's defence of the idea is the rejection of infallibility, which is fundamental to any attempt to deny the freedom since it adopts the position that the expression in question is *undoubtedly* in error and/or wicked. Since we can never be so sure, either of our own position or that of anyone else, we ought to resist any unjust limitation on the freedom of speech (Mill 1861, 24ff.). Furthermore, exploration of the world and its possible truths, the capacity to determine one's own opinions and beliefs, is a necessary dimension to the development of a person's faculties – to deny a person the opportunity to hear the beliefs of others and to formulate their own beliefs without very good reasons (as found in the harm principle) is to hamper the development of that person. The fundamental value of truth found in Mill was echoed in the 'landmark' judgement found in *Abrams vs. the United States* (1919). Justice Olver Wendall Holmes argued that 'the ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in the competition of the market' (quoted in Koltay 2019, 10).

[100] Para. 21. See also Attorney-General v. Guardian Newspapers Ltd. (No. 2) [1990] 1 A.C. 109, at 283-284, where it is claimed that there is no significant difference between English Law and the ECHR.

[101] In fact, they suggest that the opposite may be the case, proposing that the crime of *scandalum magnatum* of 1275, which sought to protect 'great men' from sentiments that might 'rouse the people against them' set a precedent in English law of placing reputation above speech in terms of what needed protection (*ibid.,* 2). Despite proposals and even laws in other countries, notably France and the U.S., the balance only really began shift decisively with the abolition of age and property requirements in juries in 1972, whereby cases would be decided people other than the propertied, privileged people (*ibid.,* 8). Crimes regarding pornography, blasphemy and defamation became far less likely to succeed, and in turn, less likely to be brought to court. Robertson & Nicol suggest that one of the few places we might see a principle of free speech in English law was in the principle of 'open justice', where justice must be *seen* to be done. Ensuring that the legal process was open and accountable in this way was 'the very soul of justice' (*Scott vs. Scott,* 1913). The authors point further to *Home Office vs. Harman*, 1982, where it is argued that 'such scrutiny serves no purpose unless it is accompanied by the rights of free speech, i.e.

So far as English law is concerned, freedom of expression was recognised most plainly in the *European Convention on Human Rights,* Article 10 (ECHR). The Convention was developed by the Council of Europe in 1950, of which the UK is a member. Since then it has become enshrined in UK law as the Human Rights Act 1998 (HRA), coming into force in 2000.

S.1 of Article 10[102] reads:

> 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

S.1 outlines the scope of the right, while s.2[103] notes the restrictions to the right. Robertson & Nicol highlight a series of key features of Article 10. In summary, they note that the right constitutes one of the essential foundations of democratic society, along with free and fair elections. If individuals cannot freely express, receive and debate ideas, they can never be sure that they have been exposed to the best arguments or the flaws in their own conclusions. By the same token, however, this applies not only to ideas that we deem acceptable or favourable, but to those that might shock or disturb also. It also follows from this that the media plays an

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the right publicly to report, to discuss, to comment, to criticise, to impart and receive ideas and information on the matters subjected to scrutiny' (*ibid.,* 14).

[102] In addition to Article 10 being the most straightforwardly pertinent, it has been proposed that Article 10 is amongst the most fundamental human rights defended by the ECHR, the defence of which is invaluable in support of many of the other freedoms. The preamble to the ECHR sees effective political democracy as a primary means of securing justice and peace, through which human rights in general can be defended. Again and again, as we will discuss below, through European Court of Human Rights (ECtHR) rulings and Council of Europe declarations freedom of expression has been considered a necessary foundation of democratic society. In sum, without a freedom of expression, many of the other freedoms would be far harder to secure.

[103] S.2 reads:

"The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

essential watchdog role, with a duty to impart information and ideas that are in the public interest. While it is true that the freedom is subject to exceptions, these must be strictly construed, established convincingly, prescribed by law and demonstrably 'necessary in a democratic society' (Robertson & Nicol 2007, 44-53). *R. vs. Shayler* (2002) captures this by noting that 'publicity is a powerful disinfectant. Where abuses are exposed, they can be remedied. Even where abuses have already been remedied, the public may be entitled to know that they occurred. The role of the press in exposing abuses and miscarriages of justice has been a potent and honourable one.'

The case here is very plainly put. The proper functioning of democracy requires a society where information can flow freely; information about the current states of affairs, information about what is proposed by those vying for positions of power, information concerning those propositions, and information as to the performance and degrees of efficiency and success achieved by those that gain power, at the very least. It is straightforwardly arguable that this short list could be added to in a multitude of ways, but the point is clear that freedom of expression, meaning the freedom to hold opinions, to receive and impart information without interference, is a necessary condition to any meaningful democracy.

Given the clear platform that freedom of expression offers to democratic ideals, then, it is unsurprising that it has been brought repeatedly into play in discussions regarding mass media in general and public service media in particular. While broadcasting in any form is not explicitly mentioned in Art. 10, it is widely recognised as applying in that context. For instance, in *Sunday Times v. The United Kingdom (1979)* it says:

> [Referring to *R. vs. Handyside*] These principles are of particular importance as far as the press is concerned. ...whilst the mass media must not overstep the bounds imposed in the interests of the proper administration of justice, it is incumbent on them to impart information and ideas concerning matters that come before the courts just as

in other areas of public interest. Not only do the media have the task of imparting such information and ideas: the public also has a right to receive them.

The key themes of Art. 10 have been brought forward as being of particular interest to public service media and have been used to clarify and reinforce the distinguishing characteristics of public service media[104].

In the first place 10(1) the freedom to receive and impart information *without interference*[105]. While there are many possible answers as to from whom, the focus is typically state authorities.

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[104] These are echoed again and again in subsequent Council of Europe resolutions undertook at European Ministerial Conferences from 1986 to 2013. See in particular the resolutions from the 4th Ministerial Conference – *The Media in a Democratic Society,* 1994. Resolution No. 1, *The Future of Public Service Broadcasting,* outlines a series of public service requirements, as well as the need for clear independent funding. Resolution No. 2, *Journalistic Freedoms and Human Rights*, lays out eight principles for promoting journalism as a means of defending democracy. Principle 1 is worth laying out in full:

> Principle 1 – The maintenance and development of genuine democracy require the existence and strengthening of free, independent, pluralistic and responsible journalism. This requirement is reflected in the need for journalism to:
>
> a) inform individuals on the activities of public powers as well as on the activities of the private sector, thus providing them with the possibility of forming opinions;
> b) allow both individuals and groups to express opinions, thus contributing to keeping public and private powers, as well as society in general, informed of their opinions;
> c) submit the exercise of the various types of powers to continuous and critical examination

See also Resolution No. 3 from the 7TH Conference (2005) on *Human Rights and Regulation of the Media and New Communication Services in the Information Society,* and the *Political Declaration: Freedom of Expression and Democracy in the Digital Age Opportunities, Rights and Responsibilities* from the Council of Europe Conference of Ministers Responsible for Media and Information Society (2013)

[105] So, to speak meaningfully of freedom of expression is to hold that at least some aspects of the media environment must be independent of undue political, governmental or commercial influences' (Berka & Tretter 2013, 14). This issue is addressed directly in the Council of Europe document, Recommendation No. R (96) 10, *On the Guarantee of the Independence of Public Service Broadcasting*. It states:

> 'Reaffirming the vital role of public service broadcasting …
>
> Considering that, in the light of these challenges, the independence of public service broadcasting should be guaranteed expressly at the national level by means of a body of rules dealing with all aspects of its functioning; …
>
> Recommends …:

The takeaway here is that for public service broadcasters to best defend and support freedom of expression, their independence, from state authorities but also commercial interests, is fundamental. If individuals have the right to receive information, as well as the right to express ideas, this must extend to points of view and claims that some interests, be they state or private, commercial, may not wish to have broadcast.

Profs. Berka and Tretter (2013, 10 – [emphasis mine]) extend the matter further:

> Starting with the notion that freedom of expression is one of the basic conditions for the progress of democratic societies, the Court has consistently highlighted the task the media have to fulfil: impart information and ideas concerning matters of public interest,

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a. To include in their domestic law or in instruments governing public service broadcasting organisations provisions guaranteeing their independence in accordance with the guidelines set out in the appendix…'

In the appendix it describes a number of ways that the 'legal frameworks governing public service broadcasters' should underpin 'editorial independence and institutional autonomy'. These include: the definition of schedules, the conception and production of programming, the editing and presentation of news.

The *Resolution of 25 November 2010 on public service broadcasting in the digital era: the future of the dual system* again affirms the dual system of public service and private sector broadcasters, especially insofar as they aided 'cultural diversity and identity, information, pluralism, social cohesion, the promotion of fundamental freedoms and the functioning of democracy' (Statement C). However, it also recognises the need for public service media providers to receive 'sufficient public funding' to ensure they can 'offer a high standard of cultural and news content, and as such explicitly to develop media literacy for the benefit of the public' (Statement S).

Recommendation 10 looks to 'define the remits of public service broadcasters so that they can retain their distinctiveness through a commitment to original audio-visual production and high-quality programming and journalism regardless of commercial considerations or political influence, which is precisely what marks them out as distinctive'. Recommendations 17 and 18 underline the independence of public service providers as a means of safeguarding their credibility, and look to secure 'appropriate, proportionate and stable funding' from member states with a view to ensuring they 'guarantee political and economic independence'.

In both these documents, freedom of expression stands as a foundation to the development of specific priorities related to public service media. A key route to ensuring freedom of expression is the support of public service media providers, and for these providers to be effective in this, they must be independent and adequately funded.

> play the vital role of public watchdog, and serve the need for *impartial, independent and balanced news, information and comment*.
>
> With these considerations in mind, one can argue that Article 10 implies a certain 'public service task' for mass media, which is derived from the role they play in a democratic society.

One theme that emerges forcefully from Berka and Tretter's analysis is pluralism[106]. They observe that pluralism can be understood in two respects. They distinguish between external media (structural) pluralism and the pluralism of opinions (content pluralism) (*ibid., 11*). The former can be understood as a plurality of platforms through which information and opinions could be distributed. The latter reflects the presence of diverse opinions or points of view, 'diverse enough to foster an informed, uninhibited and inclusive discussion on matter of public interest' (*ibid.*). While they observe that there is some discussion as to which sort of pluralism is demanded by a freedom of expression, public service media perspectives tend to seek a balance between the two. This interpretation is supported by the Council of Europe. The *Declaration on the Freedom of Expression and Information* (1982), statement 6 reads:

> Convinced that states have the duty to guard against infringements of the freedom of expression and information and should adopt policies designed to foster as much as possible a variety of media and plurality of information sources, thereby allowing a plurality of ideas and opinions.

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[106] They note that 'pluralism' is explicitly marked out in the account of the right of freedom of expression as recorded in the *Charter of Fundamental Rights of the European Union*, Article 11 of which reads:

> Article 11 - Freedom of expression and information
>
> 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
>
> 2. The freedom and pluralism of the media shall be respected.

We should defend media pluralism in both senses[107]. Guaranteeing a role for public service providers is desirable for source diversity, ensuring a platform distinct from state or commercial organisations. Public service broadcasters, with their commitment to reflecting and representing diverse communities, however, have a responsibility to assure a pluralism of voices and outlooks.

The European Court of Human Rights in the case of *The Observer and The Guardian vs. United Kingdom* (1991) [Para. 59(b)] stated, referring to the cases of Handyside and Sunday Times that we have noted above in relation to freedom of expression:

> These principles are of particular importance as far as the press is concerned. Whilst it must not overstep the bounds set, *inter alia*, in the 'interests of national security' or for

[107] However, the external aspects, in the sense of ensuring 'a variety of independent media outlets' and prohibiting the possibility of any sort of media monopoly whether state or commercial, remain equally pressing considerations in human rights jurisprudence (*ibid.*). For instance, Haraszti, in his introduction to the Issue Discussion Paper on *Media Pluralism and Human Rights* (2011), states baldly in the opening lines of the introduction, 'the basic human right to freedom of expression and information cannot be properly exercised without the presence of a large number of rival media outlets which are free from the domination of political or commercial interests'. He continues: 'only a sufficiently diverse media environment can keep the public aware of facts, views and debates which hold government to account' (Haraszti 2011, 6).

Given the tendency within media environments that media outlets, even in a free society, can tend towards political or commercial interests, it can be the case that a well serviced society, appearing to possess media pluralism may not truly reflect the diversity of positions within it. As such we can argue that governments need not merely not interfere with media output, it must actively encourage and facilitate 'competition and diversification'. One clear strategy for ensuring this outcome is the 'establishment of well-funded, independent public service broadcasters that serve as positive examples of diverse and fair journalism' (*ibid*., 7).

Haraszti draws in favour of 'dual systems' – a media environment made of up both commercial and public service providers. They offer an 'ideal combination of external and internal pluralism' (*ibid.,* 18). Commercial broadcasters will provide external pluralism, in that they will move to fill various market sectors with a multitude of providers with a view to maximise revenues. Public service broadcasters, on the other hand, 'can be a guaranteed infrastructure for detached, impartial newscasts both in times of and between elections, more reliable than governments, parties or the markets'. He continues:

> 'Public service broadcastings inclusive remit also provides a unique opportunity to strengthen all types of human rights, the rule of law, democracy and the protection of minorities. It is a unique platform for the achievement of societal goals such as civility, social cohesion, non-aggression and multicultural values.' (*ibid.,* 19)

> ‘maintaining the authority of the judiciary,’ it is nevertheless incumbent on it to impart information and ideas on matters of public interest. Not only does the press have the task of imparting such information and ideas: the public also has a right to receive them. Were it otherwise, the press would be unable to play its vital role of ‘public watchdog.’

The implication of this statement seems plain – the press has a direct responsibility, not only to impart information, but to go looking for the information that the public wants and needs, even if it does not know that it does. The public has a right to receive information that it is in its interest to know. Journalism has a role in looking out for and rooting out cases where the public interest lies. Porter quotes Marmaduke Hussey, previous chairman of the BBC, in saying that ‘public impropriety and incompetence, at whatever level, are proper subjects for journalistic enterprise and inquiry’ (Porter 1993, 49). Underlining this and extending it further, Porter then quotes the German Federal Constitutional Court, who ruled that public broadcasting is:

> ‘More than a “medium” for the forming of public opinion; it is an eminent “factor” in the formation of public opinion. Its contribution to the formation of public opinion is in no way limited to news broadcasts, political commentaries, series on past, present and future political problems; radio plays, musical presentations, the transmission of satirical and cabaret programmes, even programme settings help to form opinion’ (*ibid*.)

Broadcasting is not simply a conduit through which information is passed. The entire enterprise is itself formative. Our eye is drawn to the obvious components of public opinion and interest – the news, current affairs and so on – but the whole edifice at every point contributes to shaping it. The news is broadcast around early evening. As the time that most people are getting home, having a meal and turning the television on, this emphasises its position as of universal importance, but also as primary, over and above the more frivolous and less important

contributions of the evening's entertainment schedule. How what is broadcast is presented may speak as much as the content of what is broadcast[108].

Freedom of Expression, Public Service Media and Recommender Systems

Applying freedom of expression and the issues it raises to the deployment of recommender systems in the context of public service broadcasters throws up a number of specific issues we must face head on, especially if that broadcaster is to meet their responsibilities.

The first and most straightforward is that recommender systems act as gatekeepers – they are, in simple terms, automatic curators, selecting content to distribute to users. They 'decide' what content is promoted for a user, and which is demoted – or even hidden, in a way comparable, in this sense, to a human editor, who would make similar decisions. They 'gatekeep' – they let some content through, and hold other content back. Freedom of expression holds that individuals have the right to receive ideas and information. If recommenders function as gatekeepers, then there is a real risk that this will impact that right, leading to individuals finding it significantly harder to receive certain ideas and information. In this sense, the administrators of the recommender system have the responsibility of ensuring that the system does not unduly

[108] Porter proposes that, in recognising the public service dimension of broadcasting, including its facility as a public watchdog, it is essential that it is not only identified and protected – in that it demands far more than a market orientation will be able to offer, it is supported by a series of listeners and viewers' rights, these themselves founded on 'receiving information and ideas' element of the freedom of expression. Porter proposes the following series of rights (Porter 1993, 50):

- at least one radio and one domestic television service free at the point of use, no matter in which part of that country they are received
- domestic broadcasting services which are independent from both commercial and political interests, and free from influence by the government of the day
- broadcasting services which provide a range and diversity of programmes, that are designed to cater for all tastes and interests, both of majorities and minorities
- accurate and objective news programmes, accompanied by impartial reports on matters of current political or industrial controversy, or current public policy
- impartial day-by-day coverage, prepared by professional reporters, of events in the domestic legislature
- programmes which expose political or financial corruption, miscarriages of justice, threats to the natural environment or inadequate consumer protection, and
- coverage of national, European and international events of high public interest.

obstruct the individual from content that they may have an interest in engaging with. This interest might be best understood as something in the same sort of mode as that described by Feintuck above (Section 5.1.1; Feintuck 2004, 39); that is to see it as an expression of the public interest, something which 'aims at neither the maximum satisfaction of individual desires nor at the promotion of collective utility or expediency, but at the establishment of social conditions under which individual persons are able to build, through industry and productive work, a life which is in consonance with the dignity of the human being' (Verdoss, quoted in Bodenheimer 1961, 213). But it may just as well be something particular to the individual – something as personal as the development of a hobby or a passing fancy.

In a similar way, we recall the words of Article 10, which note the 'freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers'. Recommender systems potentially represent such an interference. Yeung examines the role that 'choice architecture' takes in interfering with our liberty (Yeung 2017, 205), and we must note that recommender systems represent a mode of choice architecture. When we engage with a recommender and consider the recommendations presented, we are engage with a set of choices that have been framed in a specific way for us; this design reflects, to some degree, the concerns and priorities of the designers[109]. As such, this reflects an 'interference' – and this counts ever where the choices are framed in ways

[109] Recommender systems are also informed by users' choices – the user's own and other peoples'. The recommendations generated by the BBC's recommender systems are shaped by metadata – content-based recommendations – and collaborative filtering, which means that key components of those recommendations are drawn from the choices and preferences of others. It has been noted that recommenders are often driven by data drawn from the most active users, the earliest adopters of the platform, or those who are most or least enthusiastic about types of content, especially content with large numbers of people who engage with it. As such they are not neutral, but likely to reveal some form of bias (Llansó et al. 2020, 15f.). The implication of this for freedom of expression is that recommendations will gravitate towards particular content and will thus compromise an individual's opportunities to receive ideas and information. (A similar proposition could be framed around content producers' opportunities to express ideas and information.) The administrators of a recommender system distributing public service content hold the responsibility therefore to ensure that users are not limited in the recommendations they receive, but that they continue to have access in a reasonably straightforward manner to the content that they carry.

describable as benign or haphazard. In short, we conclude that administrators of recommender systems in the context of public service broadcasting have a responsibility to ameliorate the mode of interference in ways that make transparent design decisions that frame the choice architecture - to ensure that users are enabled to reframe the choice architecture or to, at the very least, understand the rationale for the architecture so that interference is rendered fully visible.

Finally, concentrating on recommenders deployed by public service broadcasters like the BBC, we have noted that one of the primary points of contact between public service broadcasters and freedom of expression is that they ensure that a prominent voice in the broadcasting landscape prioritises the public interest, in the sense that it gravitates neither towards state interests nor commercial. The administrators of a recommender system being deployed within the context of a public service therefore have the responsibility that the recommender itself – its design, the data it gathers and produces to generate recommendations, the metrics it uses, the outputs it is optimised towards and so on – is governed and fashioned by public service principles.

5.3.2. Right to Privacy and Data Protection

We turn to two, closely related, areas of responsibility for the BBC: privacy and data protection. Plainly they point to different things, but the overlap is such that they are best dealt with in the same section, especially when we are looking to pin down the legal obligations that the BBC is under relative to our study.

Article 8 of the ECHR addresses privacy directly. In summary, it is presented in the same fashion as Article 10:

> 1. Everyone has the right to respect for his private and family life, his home and his correspondence.

Much like Article 10, s.1 marks out what is being protected and s.2 marks out the limitations[110].

I will first want to define exactly what we mean by privacy and we will then need to try to outline how the right to privacy is supported and defended in law in order to identify what responsibilities will come into play for the BBC in respect to its deployment of recommenders.

Privacy

Annex 2 accounts for the problems that are faced in defining privacy. In summary, we noted that privacy could seen as negative, in the sense of being left alone, or as positive, as in the privacy to be, to work out our thoughts for ourselves (Sykes 2000). We concluded that while both approaches had their virtues – echoing Solove's rejection of holding unitary theories of privacy (Solove 2011, 24; see also De Koops et al. 2017, 488) – the model more appropriate for our study was the positive. Specifically, we recalled Richards' conception of 'intellectual privacy' – 'a zone of protection that guards our ability to make up our minds freely… the protection from surveillance or unwanted interference by others when we are engaged in the process of generating ideas and forming beliefs' (2015, 95).

What is important for us in this study is not only to approach some appropriate definition of privacy, though, but to also draw towards the legal obligations that relate to it, and more than that, those obligations that are relevant to the study. However, our first observation must be to say that the positive conceptions of privacy gain much less traction in the law. While the ECHR does recognise the importance of some positive aspects of privacy – the right to personal development and the right to establish and develop relationships with other human beings and the outside world', as well as recognising the role of autonomy (Pretty vs. UK, §61; see also Peck

[110] S.2 reads:

"2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

vs. UK, §57), the Guide on Article 8 of the ECHR states that the essential object of Article 8 is to protect against 'arbitrary interference' (Council of Europe 2020, 8; See also *Kroon and Others v. the Netherlands, §31, Bărbulescu v. Romania [GC], §108-111*). In other words, legal approaches to the question of privacy are predominantly framed in the mode of negative conceptions of privacy. Nonetheless, we can say, that is scope for positive obligations. *X & Y vs. The Netherlands, §23* does state that 'there may be positive obligations inherent in an effective respect for private or family life… These obligations may involve the adoption of measures designed to secure respect for private life even in the sphere of the relations of individuals between themselves'. In addition, we have already noted the obligations present in Art. 10 which extend to the same territory as the protection of space for individual's to develop their own thoughts and autonomy. Consequently, we may consider that the administrators of recommenders, especially in the context of public service broadcasters, have the responsibility to respect the positive dimensions of privacy – to ensure that the recommendations generated do not compromise or limit the extent by which individuals are capable of developing their own thoughts, their own sense of self, their own means of engaging with others and the world around them. They have the responsibility to ensure that users have access to a full range of relevant content, that they can explore this content at will, and that the platform will contribute to enabling the individual to participate in their wider community in ways they feel aiding their personal development as its members.

As we have noted, the negative senses of privacy may be summed up as 'the right to be left alone', and, unlike positive conceptions, which are given scant attention in the law, these are far more thoroughly attended to. These senses, in the general context of broadcasting, are typically seen in the mode of the protection against the misuse of information about persons. For example, media law concentrates on matters such as inappropriate taking and publishing of photographs, wiretapping as a means of gaining information; indeed, privacy is often highlighted more as an issue of confidence – information that was understood to be private, shared by

people with access to it. Many of these issues are effectively recognised and dealt with within the BBC's own Editorial Guidelines[111] and so we do not need to concentrate in depth on them here.

However, negative conceptions of privacy do continue to have a bearing on our situation in directly pertinent ways. Recommender systems do not leave us alone. In order to function at their best capacity, they demand significant amounts of information. They may draw upon log-in information likely given voluntarily but primarily, especially for the BBC, they will draw on user behaviour – the choices made by the user, their clicks, what they bookmark, what they revisit, how much is watched and so on. In other words, the data that is used to generate recommendations is produced by the users of the system in the actual using of it. As such, discussions of privacy lead us directly to discussions of data and data protection.

Negative conceptions of privacy, including how they relate to issues of data protection, are given expression and guidance through the ECHR case law, but also subsequently through GDPR and the Data Protection Act 2018 which, following Brexit, has now wholly superseded it and has been replaced by the UK-GDPR.

> "The need for safeguards is all the greater where the protection of personal data undergoing automatic processing is concerned…. Domestic law should notably ensure that such data are relevant and not excessive; and preserved in a form which permits identification of the data subjects for no longer than is required for the purpose" (S. & Marper vs. the United Kingdom [GC], §103)

Data Protection

[111] https://www.bbc.com/editorialguidelines/guidelines/privacy/

In Section 3.2.2. we have already engaged with the concerns that attend data protection. Here, my interest is simply to outline the headline features of the legal picture, although there will be overlap.

A product of the rise of digital technologies founded on the internet is that there has been the recognition of a need to protect personal data, as well as to consider the way that it is used and to what ends. With this in mind. the GDPR was passed in 2016 and was largely written into UK law with the Data Protection Act 2018. Following Brexit, the GDPR no longer held authority in the UK and was replaced by what is called the UK GDPR under The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019. What follows is a brisk summary of the headline points. The BBC has a responsibility to meet all the obligations set out in the UK GDPR.

Article 4 of the UK GDPR recognises that there are three roles that need consideration: the data subject, the data processor and the data controller. In our case the data subject is the user – logging on to iPlayer, Sounds and so on, and the BBC is joint data controller and processor in that they both decide how the data should be used and processed and also do the processing. What is at stake is the role of personal data, which is defined as information that is related to an identified or identifiable individual (Art. 4(1)). Examples of personal data include a person's name, an ID number, location or an online identifier, such as an IP address or a cookie. As we will outline in Chapter 7, the BBC gathers a range of personal data in the pursuit of generating recommendations, from log-in data to behavioural data regarding usage.

Article 5(1) outlines the principles of data protection[112], which form the basis for the obligations that are placed upon data controllers. There are six. "Personal data shall be:

[112] Although it was written a few years before the GDPR was passed and the subsequent Data Protection Act 2018, Bygrave's list of core principles of data privacy law offers a helpful checkpoint as a first pass of what needs to be considered (Bygrave 2014). He draws upon the EU's Data Protection Directive 1996

a. Processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');

b. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes…

c. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');

d. Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');

e. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation');

f. Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss,

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(DPD), Council of Europe's Convention 108 (redrafted 2018), the ECHR and other international legal standards. I have included in parenthesis where the principle also appears in the GDPR. There are eight:

i. Fair and lawful processing – *Convention 108 Art. 5; DPD Art. 6(1); (UK GDPR Art. 5)*
ii. Proportionality – *While it is rarely identified explicitly, Bygrave sees it in the case law related to ECHR Art. 8(2), especially where it incorporates the criterion of 'necessity'; (GDPR Art. 6(3)(b))*
iii. Minimality – *DPD Art. 6(1)(e); Convention 108 Art. 5(e); (GDPR Art. 5(c))*
iv. Purpose limitation – *DPD Art. 6(1)(b); Convention 108 Art. 5(b); (GDPR Art. 5(b))*
v. Data subject influence – *That data subjects ought to have some influence over how their data is used. Bygrave points to the OECD Privacy Principles ('The OECD Privacy Framework, 2013), specifically Part II., Art. 7 [Para. 13] – The Individual Participation Principle; DPD Art. 12; (GDPR Chapter III: Rights of the Data Subject (Art. 12-22))*
vi. Data quality – *DPD Art. 6(1)(d); Convention 108 Art. 5(d); (GDPR Art. 5(d))*
vii. Data Security – *DPD Art. 17; Convention 108, Art. 7; (GDPR Chapter IV, Section 2: Security of Personal Data, Art. 32-34)*
viii. Sensitivity – *Recognition of the sensitivity of certain (protected) categories of personal data. DPD Art. 8(1) and (5); Convention 108 Art. 6; (GDPR Art.9)*

destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality')."

Article 5(2) states plainly that the data controller is responsible for meeting all of the above, and must be able to demonstrate compliance. In turn then, as the data collector, the BBC has the responsibility to ensure that the deployment of its recommenders are within the law, fair (in their treatment of individuals) and transparent, clear why they need data to users and for what purposes, only gather that data needed to generate recommendations, and ensure that data is up to date and accurate, and kept only so long as needed, and securely stored.

Article 6 goes on to outline the lawful bases for processing personal data: consent, contract, legal obligation, vital interests, public interest or legitimate interests. From the list given, two bases are available to the BBC, consent and legitimate interests. Consent is clearly the most direct and the BBC do require users consent. In terms of defining consent, a positive opting-in is required, along with a very clear, specific statement of consent; the ICO hold that consent ought to be granular, where appropriate, sought for each relevant sphere of processing[113]. However, an argument could be mounted in favour of legitimate interests in that the personalised distribution of public service content would support and promote a healthy democracy. If that would be argued[114], Art. 5(4) outlines several factors that would need to be taken into account including the purposes for processing, the sorts of data being gathered, the possible

[113] https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/lawful-basis/consent/what-is-valid-consent/#what2

[114] Eskens argues that such a claim ought not be argued. She notes that Art. 6(f) specifies that public authorities may not make use of the legitimate interest ground for processing data – otherwise, public authorities would be able to decide for themselves when legitimate interests were in play whenever they want instead of when they are 'democratically authorised to do so' (Eskens 2019, 164). She continues, noting that while the GDPR does not define 'public authorities' and that the Article 29 Working Party (see below) recommended that it should be defined by member states for themselves, they nonetheless offered public broadcasters as an example and so we may consider that under the terms of the GDPR, public service broadcasters like the BBC may well fall under this qualification.

(To clarify, the Article 29 Working Party was an independent advisory group established by Directive 95/46/EC, dealing with issues relating to the protection of privacy and personal data until 25 May 2018, when it was replaced by the European Data Protection Board (EDPB) - https://edpb.europa.eu/about-edpb/who-we-are/legacy-art-29-working-party_en)

safeguards. Nonetheless, the BBC does seek consent for the use of cookies and offers clear information on what is being gathered and for what purposes[115].

Articles 12-22[116] outline a series of rights summarised as the 'rights of the data subject', although articles 12 could be seen more as setting the scene for the rights, than as a right itself. It states that information, communication and modalities should be 'concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child'. Articles 13-15 outline what information a data subject has a right to whether or not personal information has been collected regarding that individual, including (not exhaustive) what data has been collected, for what purposes, contact details for the data controller, the period that data will be stored and so on.

The remaining rights are as follows:

- Article 16: The right to rectification – *the right of a data subject to ensure that incorrect or incomplete information is corrected in a timely manner by the data controller,*
- Article 17: The right to erasure ('right to be forgotten') – *the right of a data subject to have personal data erased by the data controller without undue delay.*
- Article 18: The right to restriction of processing – *the data subject has the right to demand that the data controller cease processing their data where its accuracy is contested, the processing is unlawful, the data is no longer needed, the data subject has objected (Art. 21) but that the grounds for objection are still being assessed.*

[115] https://www.bbc.co.uk/usingthebbc/privacy-policy

[116] Eskens (2019) examines the journalism provision contained in Art. 85(2), which requires member states to include in their domestic laws exemptions or derogations for journalistic data processing. However, she proposes that news personalisation does not fall under this provision, suggesting that it is closer in kind to marketing than it is to journalism in and of itself. In sum, she concludes in this section that the 'GDPR does not block the media from disseminating news content; it merely conditions how the media may process personal data to disseminate news in a personalised manner' (Eskens 2019, 160). Consequently, it appears there is no clear reason why news consumers should not have the full range of rights available to them outlined in Art. 12-22.

- *Article 19 states the obligation for the data controller to inform the data subject of rectification, erasure, restriction*.
- Article 20: Right to data portability – *the data subject has the right to be provided with their data in such a fashion that it might be passed to a further data controller without hindrance*.
- Article 21: The right to object – *The data subject has the right to object to their data being processed on public or legitimate interests (Art. 6(1)(e) or (f)), including profiling, or on the basis of direct marketing*.[117]
- Article 22: Rights regarding automated individual decision-making, including profiling – *Para. 1 reads*: *The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her, unless with explicit consent, is required by law, or on the basis of a conflict*.

There has been discussion whether or not Article 22 applies to news personalisation. Eskens is circumspect on the basis of what 'legal effects' might be and what it would mean to 'significantly affect' users. While news personalisation does carry risk of impacting the lives of data users, through risks of filter bubbles and so on. However, as we have noted, many of these risks have been overstated, and the effects users suffer may not be 'significant' or 'long-lasting' and are unlikely to have the kind of effects that Article 22 was intended to respond to – such as loan or parole applications, for example. She concludes that the 'application … to news

[117] One way that a data subject may object would be if they withdrew consent, and under Art. 7(3) the data subject has the right to withdraw consent at any time, and this does extend to the processes that play a role in news personalisation. However, if withdrawing consent leads to a meaningful reduction of service such that the data subject has access with a diminished range of content, then there is a potential conflict with the responsibilities that fall under the right to freedom of expression found in ECHR, Art. 10. In the case of the BBC, however, if a user refuses or withdraws consent, there is no reduction of content that the person has access to – there simply is not personalisation. The content that the data subject sees is the same as would be seen if there were a cold start – i.e. if there were no data yet gathered for that user.

personalisation is limited' (Eskens 2019, 166-167). Vermeulen sees more scope. Drawing on freedom of expression and freedom of thought and opinion (ECHR Art. 9 & 10), she sees news personalisation as representing a significant risk to a person's capacity to develop opinions, share and receive information, and ultimately their ability to act with full autonomy. She concludes:

> "We argue that news personalisation at news websites, to the extent it would impede people from having the possibility of being informed and/or informing themselves about matters of public concern, and/or impair their intellectual capacity to assess the general importance of the news items they are being recommended, surpasses the limits of influencing acceptable in light of the freedom of thought and opinion" (Vermeulen 2020, 194-197)

Whether or not Article 22 applies straightforwardly to news personalisation is an ongoing matter of debate, but we should pause. It draws our attention to decisions that are *solely* the consequence of automated processing. As we will note in Chapter 7, the BBC remain committed to maintaining a human in the loop and so, while this remains the case, Article 22 will not apply regarding the BBC's development of news personalisation techniques.

5.3.3. Other general laws

This small range of general laws apply expressly to the BBC, as well as others, and are directly relevant to the deployment of recommender systems, so we must include them. However, these laws are very specific in application, they each concern the particular surfacing of information. In addition, it is very fair to say that the BBC are already very conscious of the issues raised. In section 7.4, we will discuss the BBC's 'business rules'. These internal constraints on the deployment of recommender systems have these laws in mind (amongst other things).

Contempt of Court Act 1981

Contempt of court refers to the courts' ability to punish any person who interferes, in any way, with the proper function of the court system' (Carey 2010, 158). Robertson & Nicol observe that the rationale for the act can be seen in line with the ECHR, Art. 6 – the entitlement 'to a fair and public hearing within a reasonable time by an independent and impartial tribunal'. To the extent that interference with the court system holds the possibility of undermining the independence and impartiality of a trial. They note that contempt of court is held as one of the restrictions on freedom of expression in Art. 10(2) (Robertson & Nicol 2007, 404).

In media law, this will typically apply where a publication (whether writing or some mode of broadcast) holds the possibility of interfering with some legal proceedings, such that they will be impeded or prejudiced (s.4(1)). (The Criminal Procedure and Investigations Act 1996, s.37 & 38 also cover the reporting of cases). Other applications include the reporting of a jury's deliberations (s.8), the use of recorders (s.9), disclosure of sources withheld from the public (s.11).

Most commonly this is considered a matter of 'strict liability'. S.1 defines this as where 'conduct may be treated as a contempt of court … regardless of intent to do so'. All that is required, therefore, is that there is such a publication that holds the substantial risk of interfering with some legal proceedings, and that these proceedings are active (Carey 2010, 161).

Defamation Act 2013

Defamation covers two spheres: slander and libel. Since slander is confined to the spoken word or gesture, media law, which concentrates on recorded speech – through writing or other forms of media, is concerned with libel (Robertson & Nicol 2007, 112). Carey notes that the

Broadcasting Act makes it plain that material broadcast, even if it is not recorded, is to be regarded as libel and not slander (Carey 2010, 35).

Carey comments that defamation has struggled to admit a precise definition but notes the one offered by the Faulks Committee on Defamation:

> "The publication to a third party of matter which in all the circumstances would be likely to affect a person adversely in the estimation of reasonable people generally." (HMSO 1975, 15[118])

Despite the issues related to the definition, Carey proposes the following as 'certainly true' of defamation (Carey 2010, 33):

- 'The statement… is made to someone other than the claimant' – there must be a third party
- 'The claimant must be alive'
- 'The statement must be in the form of words that tend to do one of the following:
    - Lower the claimant in the estimation of normal right thinking people;
    - Expose the claimant to hatred, contempt or ridicule; or
    - Cause the claimant to be shunned or avoided'

We might note two further considerations. First, defamation is dependent on the view of the 'ordinary reader'. In other words, it is not reliant on how the words might be understood by a specialist in the field or the intention of the person who writes or speaks the words – instead, it is dependent entirely on how those words are likely to be perceived by a 'normal, right-thinking person'. It should be added, however, that such a person is understood to appreciate the

[118] HMSO, *Report of the Committee of Defamation* (The Faulks Committee, Cmnd. 5909), 1975. Appendix A covers a point of dissent by one of the committee members, William Kimber. In headline he considers the definition given to exclude elements that previous law include, but which he felt were socially valuable. Furthermore, he thinks that it is ambiguous and would lead the court open to trivial claims (pp. 189-198).

subtexts of what is being said – they will be able to grasp irony or humour, even if in bad taste (Robertson & Nicols 2007, 107). Second but related, the context of what is said is important and can and will affect the way that it is understood over time. As in a case such as *Slazengers Ltd. Vs. Gibbs & Co. (1916)*, at one time it would have counted as defamation to refer to a person as 'German', whereas it would be very unlikely to do so today.

In summary, care must be taken on the part of recommender systems to ensure that material that is surfaced do not contain any claims that might, in the context of separate climate, be taken to be defamatory.

Representation of the People Act 1983 (and related)

A range of issues relate to publishing and broadcasting content that concerns the processes of elections and referendums and these can have a bearing on the material that might be surfaced by recommender systems. These are found across different statutes and regulatory codes.

The Representation of the People Act 1983, s. 106(1) holds that it is illegal that any person or body before or during an election that publishes a false statement of fact with the purposes of affecting the return of a candidate, unless it can be shown that there were reasonable grounds for believing the statement true. Similarly, s.106(5), states that it would be an offence to publish claims to the effect that a candidate had withdrawn from an election. In both these cases, it is important that recommender systems do not surface content that falls under these obligations. While it might be unlikely, it is not inconceivable that historical content could do so.

The Communications Act 2003 s.319(1) gave broadcasting authorities, principally Ofcom, the responsibility of drawing up codes of practice, including requirements for political content regarding elections and referendums. The Ofcom Standards Code came into force in 2005 (see section 4.3), while section 5 deals with impartiality of views and opinions in general, section 6

deals with elections specifically. The goal of this section is to ensure that the special impartiality rules regarding elections are upheld. In particular:

- Prohibiting political advertisements (Communications Act 2003, s.321(2)
- The distribution of Party Political Broadcasts – specifically, that due weight is given to the coverage of major parties including where other parties or candidates have significant views or perspectives as well as designed organisations[119] (Ofcom Standards Code 6.2-6.3).
- Ensuring that the discussion and analysis of election and referendum issues finish upon the opening of polls (6.4)
- The results of opinion polls or exit polls may not be published or broadcast during the polling period (from the opening to close of polls) (6.5) (See also Representation of the People Act 1983, s. 66A)
- Candidates and representatives may not act as presenters or interviewers on broadcast content during the election period (6.6)
- Where one candidate is given the opportunity to comment on matters relating to their constituency, other candidates from the major parties must also be given the opportunity (6.9-6.10)[120]

Aside from the first two points, all of the subsequent points raise concern for recommender systems in the midst of an election period, which need to be navigated carefully.

5.3.4. Who is the BBC responsible towards?

Having outlined the responsibilities of the BBC, we must recall the question of who the BBC is responsible to. One key element of many applications of responsibility is to be accountable for

[119] An organisation will be designated by the Electoral Commission (Ofcom Standards Code, 6.3).
[120] The Ofcom Standards Code form the basis for the BBC's own Editorial Guidelines (Section 10), which are far more prescriptive. The introduction to the section claims that if the guidelines are followed, then Ofcom's Standards will be met (BBC Editorial Guidelines 2019, 190).

something. This is certainly the case with legal responsibility, so to whom is the BBC accountable? The simple answer to the question is to look to the authorities the BBC has to answer to – essentially to consider who it is that would hold the BBC's feet to the coals if the BBC were found to have failed in meeting their obligations.

In this case, our attention is directed to Ofcom, which has regulatory authority over the BBC. If a person has a complaint to issue over what is broadcast, the complaint is directed to Ofcom. However, beyond Ofcom, there will be the Parliamentary Culture, Sport and Media Select Committee[121], the Secretary of State, and ultimately Parliament. Parliament does retain the power to revoke the BBC's license to broadcast – so ultimately, the BBC is responsible to Parliament[122].

While this is true, there are two, deeply overlapping, senses in which we want to go further. The first is to ask the question who Parliament is responsible to and one of the available answers[123] is the electorate. In a liberal democracy, members of Parliament are returned on the basis of their constituency's pleasure – if the people of their constituency are not happy with their performance, they can be voted out of office. From this, governments are held to account (Tomkins 2003, 132). The second sense is that the BBC is also responsible to its licence fee payers. Strictly speaking as noted, the BBC is primarily responsible to Ofcom and Parliament,

[121] https://committees.parliament.uk/committee/378/culture-media-and-sport-committee/

[122] An illustration of this position was provided by Mr. Gregory Campbell MP in discussion regarding BBC accountability and transparency:

> "The problem is that when I and others raise very important issues such as the lack of transparency and the lack of accountability and I and others go to places such as our regional BBC, we do not get answers. Then we come to BBC London and we do not get answers. Then we go to the National Audit Office and we do not get answers. Then we go to Ofcom and we do not get answers. The buck has to stop somewhere, and eventually the buck stops with the Government, Parliament and all of us who, on the public's behalf, have to try to hold the BBC to account."

(https://hansard.parliament.uk/commons/2022-03-15/debates/09B779FB-02EF-460A-B4A2-18CD3268769B/BBCAccountabilityAndTransparency)

[123] One of the available answers, of course, is that Parliament is not responsible to anyone, that as a sovereign body, the buck stops there (Tomkins 2003, 132).

but there is a clear sense that this responsibility is granted on behalf of licence fee payers and the users of the BBC services. For instance, Ofcom's recent statement modernising the BBC's Operating Licence frames its activities as holding 'the BBC to account for delivering its remit on behalf of viewers and listeners' (Ofcom 2023, 3); Richard Sharp, former Chairman of the BBC, considers the BBC's management of its funding as 'stewardship', implying that the BBC's activities are on behalf of licence fee payers (BBC 2023, 129, 133). In sum, while we might say that the BBC's responsibilities are directed towards Ofcom and Parliament, but more meaningfully, we conclude that the BBC is responsible to the public, in whose interest it operates.

6. The Analytic Framework

Having articulated the two modes of responsibility we identified in the argument, the BBC's role responsibility and its legal responsibilities, we come to the conclusion, where we are in a position to gather them together and offer a definitive answer to our research question: how can the BBC deploy personalised media content recommendations responsibly? A simple response is to say that the BBC can deploy recommenders responsibly if it fulfils these duties.

With this in mind, our first task is to gather these together, which I do in Table 6.1 in the first section. Armed with these, I construct an analytic framework – literally a framework with which to analyse – a tool we can use to examine the question before us. I will distil these duties into four core responsibilities, orientated around principles of political philosophy and jurisprudence about the importance of speech in a democracy. These are natural points of orientation given the role and purposes of the BBC. As a public service broadcaster, established by Government, to the end of serving the public interest, the BBC's role is, at root, political, and as a broadcaster, tasked to inform, educate and entertain, it reflects the importance of speech in a democracy. These core responsibilities will, in effect, form a tool that will enable us to address our question – to state, straightforwardly, what it means for the BBC to deploy recommenders responsibly. It will also enable us to examine the current operations of the BBC, to assess and evaluate the extent to which it meets its responsibilities, as well as to identify areas of shortfall and possible actions it could take to remedy. We will perform this task in chapter eight. But, in simple terms, the analytic framework is a measuring tool, with which it can measure the compliancy of the BBCs deployment of recommenders against its responsibilities.

In the first section, then, I gather the duties drawn from chapters four and five, and then begin to separate them into the four core responsibilities of the analytic framework. Before I turn to

examine these core areas, I want to pause, however, and contextualise the analytic framework, because the context in which it exists is relevant and important and will impact the way that it is understood and used. Specifically, the BBC and the framework operate in a liberal democracy under the rule of law. Understanding this is part of the underlying responsibility of the BBC and serves as the foundation upon which the four core duties sit. They must, in summary, recognise and uphold the values of all people as free and equal, participating in a democracy in which all people are subject to the law and where the public powers of government are accountable to them.

From there I examine and detail the four core responsibilities, demonstrating plainly their connection to the body of responsibilities drawn from the previous chapters. I seek to make plain the fundamental utility of each core duty to the analytic framework. In conclusion, I will present an answer to our research question – how the BBC can deploy recommenders responsibly – extracting from each core duty. In doing so, I will comment on questions of prioritisation and resolving potential conflicts between the core duties.

6.1. The responsibilities of the BBC and the four core responsibilities of the analytic framework

In table 6.1, I catalogue the laws and regulations that we have identified in chapters four and five. Responsibilities #1-#33 are all drawn from legal and regulatory responsibilities, whereas those under #34 are intended to denote the role responsibilities that follow from the BBC as a public service broadcaster. I note that a small number are not relevant to our study, being directed towards non-BBC services (#23-#24) or the BBC's international service, the World Service (#14a-g). Nonetheless, I have included them because they sit as part of the wider body of the BBC's responsibilities. Alongside each of these responsibilities in the first column, in the

second I have included the relevant law or regulation, and noted where I have discussed or commented on the law in that chapter.

Table 6.1: The BBC has the responsibility to:	
Responsibility	*Source of Law/Regulation [Location in Chapter]*
1. Act in the Public Interest	Charter Art. 5, [5.1.1.]
2. Serve all audiences	Charter Art. 5, [5.1.1.]
3. Provide impartial, high quality and distinctive output	Charter Art. 5. [5.1.1.]
4. Inform, educate, and entertain	Charter Art. 5, [5.1.1.]
5. Broadcast in the UK's indigenous minority languages	Charter Art. 14(5), BBC 2015 [5.1.2.]
6. Provide impartial news and information	Charter Art. 6(1), [5.1.2.]
7. Help people understand and engage with the world around them	Charter Art. 6(1), [5.1.2.]
8. Champion freedom of expression	Charter Art. 6(1), ECHR Art. 10, [5.1.2.]
9. Support learning	Charter Art. 6(2), [5.1.2.]
10. Show the most creative, highest quality and distinctive output and services	Charter Art. 6(3), [5.1.2.]
11. Develop fresh approaches and innovative content	Charter Art. 6(3), [5.1.2.]
12. Reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions	Charter Art. 6(4) [5.1.2.]

13. Support the creative economy across the United Kingdom	Charter Art. 6(4) [5.1.2.]
14. Reflect the United Kingdom, its culture and values to the world	Charter Art. 6(5) [5.1.2.]
14a. Ensure it provides high-quality news coverage to international audiences, firmly based on British values of accuracy, impartiality, and fairness	BBC 2018, [5.1.2.]
14b. Deliver services that provide audiences with a global perspective on the world, not one based upon any national or commercial interest	BBC 2018, [5.1.2.]
14c. Serve as an independent and trusted guide as access to information grows, helping audiences understand the world around them and make sense of competing views	BBC 2018, [5.1.2.]
14d. Provide a range of content and output across its services to reflect the United Kingdom, its culture and values to the world, including its Nations and Regions where appropriate, and to place the United Kingdom in a world context	BBC 2018, [5.1.2.]
14e. Provide opportunities for an ongoing global conversation that promotes greater	BBC 2018, [5.1.2.]

understanding across national boundaries, languages and media	
14f. Enhance the quality and breadth of all BBC output by working with other BBC services to aid international understanding and provide global perspectives	BBC 2018, [5.1.2.]
14g. Make available to licence fee payers in the UK such of its content as it deems appropriate	BBC 2018, [5.1.2.]
15. Protect the under 18s	Ofcom Standards Code 2020, Communications Act Art. 3(4)(h), Art. 319(2)(a), ECHR Art. 10, [5.2.]
16. Protect people from harm and offence	Ofcom Standards Code 2020, Communications Act Art. 3(4)(g), Art. 319(2)(a)(f) and (l), ECHR Art. 10 & 14, [5.2.]
17. Not encourage crime, disorder, hatred or abuse	Ofcom Standards Code 2020, Communications Act Art. 3(4)(j), Art. 319(2)(b), ECHR Art. 10, [5.2.]
18. Ensure that religious programming stays within the guidelines	Ofcom Standards Code, Communications Act 2003 Art. 3(4)(j), Art.319(2)(b), ECHR Art. 9, 10 & 14 [5.2.]
19. Present news accurately and with due impartiality	Ofcom Standards Code, Communications Act 2003 Art. 319(2)(c) and (d), (8), Art. 320, ECHR Art. 10 [5.2.]

20. Take extra care and attention regarding due impartiality during elections or referendums	Ofcom Standards Code, Communications Act 2003, Art. 319(2)(c), Art. 320, ECHR Art. 10, Representation of the People Act 1983, Art. 66A, 92, 93 [5.2.]
21. Avoid unjust or unfair treatment or individuals or organisations	Ofcom Standards Code, Communications Act 2003 Art. 3(2)(f), Art. 326, Broadcasting Act 1996 Art. 107(1), Art. 130, ECHR Art. 10 [5.2.]
22. Avoid unwarranted infringements of privacy	Ofcom Standards Code, Communications Act 2003 Art. 3(2)(f), Art. 326, Broadcasting Act 1996 Art. 107(1), Art. 130, ECHR Art. 8 & 10 [5.2]
23. Maintain editorial independence, ensuring distinction between programming and advertising	Ofcom Standards Code, Communications Act Art. 319(2)(fa)(i) and (j), (4)(a)(c)(e) and (f), Art. 321(1) and (4), Art. 324(3), Broadcasting Act 1990 Art. 202, ECHR Art. 10 [5.2]
24. Maintain transparency for radio broadcasts in regards commercial communications	Ofcom Standards Code, Communications Act Art. 319(2)(f)(i) and (j), (4)(e) and (f), Art. 321, Consumer Protection From Unfair Trading Regulations 2008 Regulation 3(4)(d), ECHR Art.10 [5.2]
25. Support the freedom of expression, including the right to receive information	ECHR Art. 10 [5.3.1.]
25a. Impart information	ECHR Art. 10, *Sunday Times vs. United Kingdom* (1979), [5.3.1.]

25b. Play watchdog role	ECHR Art. 10, *R. vs. Shayler* (2002)*, The Observer and Guardian vs. United Kingdom* (1991), [5.3.1.]
25c. Remain independent	ECHR Art. 10, Council of Europe - 4th Ministerial Conference – The Media in a Democratic Society, Resolutions 1 & 2), Recommendation No. R(96) 10, On the Guarantee of the Independence of Public Service Broadcasting, [5.3.1.]
25d. Aid 'cultural diversity and identity, information, pluralism, social cohesion, the promotion of fundamental freedoms and the functioning of democracy'	Council of Europe, *Resolution of 25 November 2010 on public service broadcasting in the digital era: the future of the dual system,* Statement C, [5.3.1.]
25e. Facilitate modes of media pluralism	ECHR Art. 10, Council of Europe, *The Declaration on the Freedom of Expression and Information* (1982), Statement 6, [5.3.1.]
26. Support the right to Privacy	ECHR Art. 8 [5.3.2.]
27. Process data lawfully, fairly and transparently	UK GDPR Art. 5(1)(a) [5.3.2.]
27a. Ensure that personal data is collected for specified, explicit and legitimate purposes	UK GDPR Art. 5(1)(b), [5.3.2.]

27b. Ensure that personal data collected is adequate, relevant and limited to what is necessary	UK GDPR Art. 5(1)(c), [5.3.2.]
27c. Ensure that personal data is accurate and up to date	UK GDPR Art. 5(1)(d), [5.3.2.]
27d. Ensure that personal data is kept for no longer than is necessary	UK GDPR Art. 5(1)(e), [5.3.2.]
27e. Ensure that personal data is processed securely, with integrity and confidentiality	UK GDPR Art. 5(1)(f), [5.3.2.]
28. Secure consent from the data subject before personal data is processed and that consent is clear, specific, and sought for each relevant sphere of processing	UK GDPR Art. 6(1)(a), ICO Guidelines, [5.3.2.]
29. Respect the rights of the data subject, including that the data subject is informed and communicated with concisely, transparently, in an easily accessible manner, and that she is made aware what information she has a right to access	UK GDPR Art. 12, [5.3.2.]
30. Recognise the rights to rectification, erasure, restriction of processing, data portability, object, and not to be subject to decisions solely based on automated processing, including profiling	UK GDPR Art.16-22, [5.3.2.]

32. Not report any false claim as fact that might lower the claimant in the estimation of 'normal right-thinking people', expose them to hatred or ridicule, or cause them to be shunned or avoided	Defamation Act 2013, [5.3.3.]
33. Not interfere with the processes of elections and referendums	Representation of the People Act 1983, [5.3.3.]
33a. Distribute Party Political Broadcasts according to rules laid out	Ofcom Standards Code 6.2-6.2 [5.3.3.]
33b. Ensure that discussion and analysis of election and referendum issues finish upon opening of polls	Ofcom Standards Code 6.4, [5.3.3.]
33c. Not report on the results of opinion and exit polls while polling is open	Ofcom Standards Code 6.5, Representation of the People Act, s. 66A, [5.3.3.]
34. Public Service Broadcasting Responsibilities	*These are less formal and substantial than the responsibilities above. They are not legal responsibilities and so face no formal sanction if they fail to be met. Nonetheless, they are embedded in the role that the BBC has as the nation's primary public service broadcaster.*
34a. To promote and support democracy, to function as the 'integrator of democracy'	Reith 1924, Reith 1949, Hendy 2013, Blumler 1992a, Hoggart 1993 [4.2.1]

34b. To provide a universal service, social cohesion, to foster national identity	Reith 1949, Tracey 1998, Broadcasting Research Unit 1986, EBU 2012, Freedman 2008 [4.2.2.]
34c. To reflect, represent and serve diverse communities of the UK	Tracey 1998, Broadcasting Research Unit 1986, EBU 2012, Blumler 1992a [4.2.2.]
34d. To educate and enrich the worldview of its users	Reith 1924, Reith 1949, Tracey 1998, Scannell 1992, Freedman 2008, Hendy 2013 [4.2.3.]
34e. To provide an independent, impartial public service	Reith 1949, Broadcasting Research Unit 1986, Hoggart 1993, EBU 2012, Scannell 1990, McQuail 2010 [4.2.4.]
34f. To provide a service of excellence, high quality content, and innovation	Reith 1924, Reith 1949, EBU 2012, Hoggart 1993, Blumler 1992a [4.2.5.]

In order to develop a framework that could be used as a tool to first establish what is required for the BBC to deploy recommenders responsibly, but then to assess and evaluate the operations of the BBC, I grouped these duties – to identify clusters of similarities. They overlap in different respects and sit closely alongside one another – there is some repetition where specific responsibilities recur across clusters. Nonetheless, they coalesce according to themes drawn from political philosophy and jurisprudence regarding the value of political speech, forming four core duties. As we note above, these themes were a natural fit given the role of the BBC as a fundamentally political institution. These duties, draw our attention to key areas of responsibility that are helpful in recognising the underpinning fundamental values and concerns that the BBC is obliged to serve, especially in their deployment of recommenders. In sum, we find that the BBC has a responsibility to (1) support and encourage democratic

deliberation (2) foster and protect epistemic trust (3) recognise and reflect difference (4) respect individual capabilities and human rights[124].

6.2. The political context of the analytic framework

Before we turn to examine the four core duties, I want to first locate our study – to situate it in a broader context. Specifically, our context is public service broadcasting in the UK; exactly: the BBC. But public service broadcasting in the UK would likely not be the same as it would be in China, for instance, or Russia, or Saudi Arabia, although it would be far more similar to public service broadcasting in France or Canada or even the United States.

The context of the study is the broad political environment of the UK, namely that it is a liberal democracy under the rule of law, and it is this backdrop that provides meaning that informs the core responsibilities we are to consider. None of them would look the same if we were to change the political context. For instance, as we will note below, epistemic trust can be seen as an elaboration of liberal democratic principles; politics of difference is a reaction to them, and so on. However, the literature on liberal democracy is vast and seriously contended. It is not my concern to engage with those debates, only that we can appreciate how this context helps us to understand the relationships between the BBC's responsibilities and the analytic framework as it develops.

[124] I am not suggesting that these areas are the only core responsibilities that might have emerged from the responsibilities we have identified, or that the framework that is founded on them is in any sense the best possible. However, I propose that these focal points follow meaningfully from the responsibilities and contribute to a framework that is valuable and constructive in assessing the operations of the BBC. They draw our attention to issues that matter, and bluntly, issues that, if they were not following from the activities of the BBC, as the nation's primary public service broadcaster, we would consider a significant failure.

The first thing to note is that in engaging with liberal democracy in particular – even though the two ideas are often lodged together in a way that suggests an inseparability – they are, in fact, two distinct ideas and can be seen in distinction from one another. Most straightforwardly, many scholars have noted that democracy had its first outing in Athens between 450-322BCE, and whatever we might say about it, we certainly ought not describe it as liberal (Parekh 1992; Held 1992). Commentators looking at the contemporary political environment have pointed to populism as an example of 'democratic illiberalism' (Pappas 2016, 28). Examples, such as Orban's government in Hungary, have mobilised the electorate and been swept into power through democratic means, but they have done so at the expense of liberal principles, often pursuing policies most would describe as 'illiberal'[125].

I will briefly summarise each component before noting how they mutually support each another. From there, I will engage with the four elements of the analytic framework, in each case placing them within the context of liberal democracy.

6.2.1. Liberalism

As already noted, the literature on liberalism is vast and certainly not unified. Waldron (1987) proposes that 'liberalism', much like 'socialism' and 'conservativism', functions like a surname in that it indicates something like a family resemblance, such that liberalism discussed by one scholar will possess differences to the discussion of another. Liberalism as discussed by Mill will hold differences to liberalism as describe by Locke or Rawls and so on. Our aim is to identify the commonalities – those features that bind different conceptions together. The two elements

[125] Similar conclusions have been drawn by others. Plattner (1999) cites Zakaria (1997) who examines the democratic efforts in post-communist and other developing regions, which had quickly adopted democracy as the means of choosing their new leaders but had then elected politicians that could be described as, in the words of American diplomat Richard Holbrooke: 'racists, fascists, separatists'. Zakaria's conclusion is that of far greater urgency in the establishment of a new constitution is that it takes time to develop liberal attitudes than it is to implement democratic methods of political decision making.

that appear to form the heart of liberalism are the freedom of citizens and their basic political equality (Audi 2012, 198) and these remain central to any discussion of liberalism. Hampton offers a five point summary of liberalism that captures the key consistently present elements (Hampton 1998, 179-181):

1) A commitment to the idea that people in a political society must be free.
2) A commitment to equality of the people in the political society.
3) A commitment to the idea that the state's role must be defined such that it enhances freedom and equality (as defined by that theory).
    a. The state has the best chance of securing the freedom and equality of its citizenry when organised as a democracy.
    b. The state can ensure freedom only by pursuing policies that implement toleration and freedom of conscience for all its citizens.
    c. The state must stay out of the individual's construction of his own life plans – his 'conception of the good'.
4) Any political society must be justified to the individuals who live within it, if that society is to be legitimate.
5) Reason is the tool by which the liberal state governs.

Elements one and two restate the classic components of liberty and equality. The third, spelled out in its three subsections, places those components in the context of the political society; the extent to which liberalism is enhanced within a democratic system, the relationship of citizens to one another, and the degree to which individuals should be free to determine their own conception of the good. The fourth and fifth unpack ideas implicit in the first three. Because people are seen to be both free and equal, the state, with the power to compel people to act in ways that may not wish to, must be seen to be legitimate – in that this power is held on grounds

acceptable to people, that people recognise, and that people, at bottom, see as being reasonable.

Liberalism holds equality and liberty at its centre, but there is some debate which ought to hold priority. Etymologically, liberalism seems to point first towards liberty (Waldron 1987, 129). But, right away, difficulties emerge – what is liberty? Economic liberty, for instance, the freedom to conduct your business without interference from the government or anybody else, seems closer in spirit to conservativism than what is typically construed as liberalism (*ibid.*). In the same way, the conception of liberty employed in Libertarianism (especially, for instance, in the USA) emphasises the freedom of individuals to act without restraint. This sort of freedom works very well for some, but it leads to others being oppressed and constrained (*ibid.*). This reflects the tensions between what is often described as the positive and negative conceptions of freedom (Berlin 1969), simplistically summarised as 'freedom from' and 'freedom to' – the former as the state of being unbound, unrestrained; the latter as to possess the ability to follow one's interests. The trouble being that one person's pursual of their interests may come at a cost of another's interest to do what they please. This tension often leads to the pursuit of freedom rubbing up against the needs of equality and some sort of compromise is often needed between the two (Dworkin 1978, 123).

Dworkin comments, echoing Waldron, that, in the balancing act between freedom and equality that we find in modern liberal democracies, those leaning towards freedom are more often characterised by conservative political identities than liberal (*ibid.*). To get to grips with what the 'nerve' of liberalism is, then, suggests Dworkin, draws us towards a concentration on equality (*ibid.,* 115). When Dworkin outlines what liberalism might look like, placed in the concrete context[126], we find equality taking the fore in that he sees inequalities of wealth and racial

[126] The context Dworkin has in mind is North American in the 1970s. If we were to re-write this for the British context of the 21st century, there may well be some differences, but perhaps not too many.

inequality being reduced, constraints on discrimination in education and housing, and regulation of private morality opposed, as well as constraint (*ibid.,* 122). All of these undermine the promotion of social equality.

At the heart of all this is a commitment to equality, and may be summarised, therefore, as saying that a liberal government ought to be committed to ensuring that all citizens are treated within society with equal levels of respect and dignity, and with broadly, if imperfectly, equal access to resources of opportunity. Throughout, liberty is present, but implicitly and largely dependent on equality; equality facilitates liberty for all, and levels the field. Mill writes, in his introduction to *On Liberty* that 'the only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it' (Mill 1861, 18). What Mill is drawing towards from Dworkin's perspective is that equality serves the purpose of managing liberty, ensuring that individuals have the same sorts of baseline in achieving it. To summarise further, citizens ought to have an equal foothold in gaining what might be called the 'good life' (*ibid.,* 125-127).

Perhaps the most influential account of political liberalism in recent times is that of Rawls. At the heart of his account is the idea of 'justice as fairness', which Rawls understood to be following from the question of the 'most appropriate conception of justice for specifying the fair terms of social cooperation between citizens regarded as free and equal, and as fully cooperating members of society over a complete life, from one generation to the next' (Rawls 2005, 3). As such, we see that Rawls also holds that at the heart of political liberalism is a model of equality. It is to be, 'as far as possible, independent of the opposing and conflicting philosophical and religious doctrines that citizens affirm'. The conception of justice as fairness, if it is to be practically useful, must promote models of justice that all can buy into and support. If the model of justice to employed within a were underpinned by any given set of doctrines, Rawls sometimes calls this a 'comprehensive doctrine', it would undermine the capacity of all

citizens to be able to endorse it – those that did not buy into the comprehensive doctrine in play would be less able or willing to support it. In this way, Rawls' conception is pursuing a neutrality as to conceptions of the good life[127].

Rawls' aim is the development of an overlapping consensus – the heart of which will be something that all reasonable parties, drawing from potentially diverse philosophical and religious doctrinal backgrounds, will be able to get behind (*ibid.,* 10). This recognises that the diversity of reasonable doctrines is a permanent feature of their society, and this recognition is key to the fundamental legitimacy of that society's political authority, as it is only in this way that all citizens can be seen as free and equal. It is also key that this is understood as political, rather than purely moral – it is intended for a specific kind of subject, namely, for political, social and economic institutions… the basic structures of society' (*ibid*., 11).

Further to the legitimacy of political authority is that debate between people is marked by public reason; 'public reason is characteristic of a democratic people: it is the reason of its citizens, of those sharing the status of equal citizenship' (*ibid.,* 213). In short, public reason concerns the discourse about the rules and standards that govern our common life, requiring that they are justifiable and acceptable to all who are impacted[128]. It is key to political liberalism in that it

[127] Rawls has refined this view since *A Theory of Justice*. Following critiques such as Galston (1991), who argued that liberalism plainly possesses some underlying substantive principles, namely those of a rational humanism, Rawls acknowledged that 'Justice as fairness is not procedurally neutral. Clearly its principles of justice are substantive…' (Rawls 2005, 192). The aim not neutrality of procedure but neutrality of aim and so will encompass things like equal opportunities, and the avoidance of any indication of favouritism (*ibid.,* 193). Dworkin also saw neutrality as following from equality. Viewed this way, liberalism was committed to neutrality only as a by-product of equality – to be equal to all citizens demands that the state is neutral to citizens (Dworkin 1978, 127).

[128] Rawls proposes a thought experiment as a means of getting beneath this. Rawls asks us to imagine ourselves in the 'original position', a sort of proto-society, wherein the inhabitants are trying to work out 'fair terms of cooperation', despite all being rationally motivated by wanting to ensure the best for themselves. However, Rawls imagines that, in order to ensure that their point of view is 'removed from and not distorted by … the contingencies of the social world' (Rawls 2005, 23) the inhabitants are covered with a 'veil of ignorance'. This ensures that in developing the laws and principles of justice for this society, they have no idea where they will factor in this society, whether rich or poor, male or female, this or that ethnicity, powerful or not and so on. The construction of this society, therefore, will, ideally, be framed in such a way that no individual or group is given advantage over others, because, after all, each lawmaker does not know where they will emerge in the equation. The prospective citizens of this society will, again

provides support for the legitimacy of political authority – 'rules can rightly be imposed on persons when the rules can be justified by appeal to ideas or arguments that those persons, at some level of idealization, endorse or accept' (Quong 2018, 1). Further it is argued that public reason offers a midpoint between two alternative foundations for legitimacy; on the one hand, consent – people do not simply hand over their rights, they agree on terms that they are party to; on the other, truth – like the comprehensive doctrines noted above, claims over truth are contentious and facilitate disagreement: public reason offers instead a way of establishing agreement by side-stepping the issue (*ibid.,* 3-4). The question of truth will be become pertinent below.

Rawls picks up this question of legitimacy when he states:

> '…we ask: when may citizens by their vote properly exercise their coercive political power over one another when fundamental questions are at stake? Or in the light of what principles and ideals must we exercise that power if our doing so is to be justifiable to others as free and equal? To this question political liberalism replies: our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonably be expected to endorse in the light of the principles and ideals acceptable to them as reasonable and rational. This is the liberal principle of legitimacy. And since the exercise of political power itself must be legitimate, the ideal of citizenship imposes a moral, not a legal, duty – the duty of civility – to be able to explain to one another on those fundamental questions how the principles and policies they advocate and vote for can be supported by the political values of public reason. This duty also includes a willingness to listen to

ideally, seek to ensure that it is governed by a model of justice that ensures that all are free and equal, able to fully cooperate, with the same opportunities.

> others and a fairmindedness in deciding when accommodations to their views should reasonably be made' (Rawls 2005, 217).

When it comes to considering what the content of public reason might be, Rawls says that it is formulated by what he calls a 'political conception of justice', which is broadly liberal in character. By this he means that it specifies rights, liberties, opportunities, assigns special priorities to these rights, and affirms measures assuring all citizens adequate all-purpose means to make effective use of their liberties (*ibid.,* 223).

When we return to the outline of liberalism offered by Hampton above, we are reminded that liberalism typically considers that its primary elements, equality and liberty, are best served when society is organised as a democracy. So let's shift our attention.

6.2.2. Democracy

Christiano defines democracy as a 'method of group decision-making characterised by a kind of equality among participants at an essential stage of collective decision making' (Christiano 2015, 2). The abstraction of this account enables Christiano to highlight several points: it is concerned with collective decision making, making decisions that are binding on all members of that group; it applies to various contexts for democracy – democracy is not only employed in states and political contexts, but also in organisations, families, etc.; the definition is not intended to bear normative weight – we can see it purely descriptively, and some have, at times, considered democracy highly undesirable; finally, it does not define the depth of the equality in play, either degree to which we may be concerned with one person one vote or to whether or not we are considering a purely representational model of democracy, or one that is more participatory or deliberative (*ibid.,* 2-3). Strömbäck summarises the typical, non-minimal normative expectations ('a growing consensus') that are held by scholars for what should have to be the case for a country to be described as democratic (Strömbäck 2005, 333):

1) The political decision makers are elected by the people in free, fair and frequent elections,
2) There is freedom of expression, of the press, and of information,
3) Citizenship is inclusive,
4) Everyone has a right to form and join organisations of their own choosing,
5) Society is law governed.

Despite noting how some might consider democracy undesirable, Christiano goes on to consider two primary ways in which democracy might be justified: consequentially or intrinsically (*ibid.*). For the latter, Christiano might point to Mill (1861, 190ff.) who argues that democracy produces personal improvements in the lives of its participants, drawing them from passive submission to an active engagement with their destinies. Also Sen (1999, 7-9), who notes that no state, under conditions of democracy, has suffered famine. He observes that famines are easy to prevent where there is the political commitment to do so, and the prospect of an upcoming election is more than sufficient in ensuring that determination from political leaders. Christiano echoes scholars like Cohen and Estlund in saying that democracy, as a system of government, is more likely to shed light on the facts at the heart of decision making, both the facts being marshalled in favour of the decision, and those that follow the meat of the decision made, in that competing parties will be quick to demonstrate false claims that are unsupported by the facts (*ibid.,* 4-5). Intrinsic arguments point to qualities that are intrinsic to the method of democracy (*ibid.*). For instance, we see in democracy as commitment to the view that each person ought to be free to live as they see fit, and where collective decisions are involved, each individual ought to have a voice in that process[129].

[129] Talisse sums the benefits of democracy thus:

As noted, there are distinct variations of democracy. Helberger (2019), following Ferree et al. (2002) has asserted that which model of democracy is being considered, has clear ramifications for the ways in which we think about the responsibilities of news providers and the modes of news personalisation, so we must take a moment to reflect on the ways that democracy has played out in history and in discussions in the literature. In the brief survey below, I will proceed from models of democracy with weaker normative claims upon citizens to greater.

Strömbäck holds that the minimum requirements for a democracy is found in proceduralist models insofar as all that is demanded is that the procedures of democracy are in place – in that the political decision makers in a society are put in place through periodic elections. Beyond this there are no normative demands placed upon citizens; they are not required to vote, they are not required to be informed regarding political matters, they are not required to participate or engage, practically or discursively, in the political processes (Strömbäck 2005, 334).

> The crucial point at present is that by creating a political order in which equals rule themselves by way of representative and accountable government, democracy sets the conditions under which we can pursue other valuable things. In freeing us from the dominating gaze of omni-present politics which characterises authoritarian orders, democracy supplies social conditions in which we can devote our individual and collective lives, at least in part, to projects and ambitions other than politics. In other words, because we are political equals, we can build relationships beyond our political roles and see one another as something in addition to political actors. As equal authors of a shared political order, we can exercise authorship of our nonpolitical lives by cultivating valuable relationships with others – relationships of creativity, support, fidelity, love, and care that have little if anything to do with politics. It might seem odd, but democracy's value lies in its being good for enabling valuable relationships beyond politics. We could go so far as to say that the importance we place on democracy is explained, at least in part, by its ability to secure the political and social conditions under which we can flourish together not only as citizens, but as human beings.

At the heart of his point is that the primary benefit, and thus justification, of democracy is that it affords citizens the space to live fuller and more personable lives – to explore your own interests and our relationships with others without fearing for the imposition of despotic government or the unrestrained actions of others. It is also worth highlighting that Talisse's account of the benefits of democracy fit, tongue and groove, into the key elements of liberalism discussed in that woven throughout it are themes of freedom and equality – democracy's primary benefit is its facilitating of individuals free and equal choices.

A second model is the representative liberal model, also described as a competitive model by Strömbäck. In short, citizens vote for representatives, who are tasked with political decision making on their behalf. Once a decision has been made regarding which candidate, citizens no longer need to be involved – there is no further need for debate.

It has been suggested that this should be considered the 'realistic' model (ibid., 334; Ferree et al. 290f.) in the sense that it has more limited, and thus realistic expectations of the levels of involvement and benefits that most citizens are able to bring to the political environment (*ibid.*). The model promotes, more than subsequent positions, the view that the best people for engaging with the actual matters of government and answering the needs of the decisions to be made, are a political elite[130]. However, even though the normative demands upon citizens remains lower, this is not to suggest that the model stops there. Ferree et al. note that it demands that there is transparency – a key feature of this model is that citizens have clear opportunities to know how their representatives are doing (Ferree et al. 2002, 291). This is of importance. A key dimension of the model is that citizens are able to 'vote the rascal out'. If a candidate has performed poorly or dishonestly, citizens should be sufficiently informed that they can mobilise this knowledge the next time they are asked to vote. So this knowledge has a past and future orientation – past in the sense of responding to past performance, but future in the sense of anticipating which candidate will deliver the best policies and decisions.

A third model is participatory democracy, which increases the normative expectations upon citizens considerably. It holds that democracy can never be reduced to a simple act of voting every few years. It is a 'value-laden system with a strong ethos of political equality and

[130] Schumpeter (1978), for instance, considered that the general public ill-suited for such decision making, referring to Le Bon's psychology of crowds, the influence of advertisers and the susceptibility of the public (Schumpeter 1978, 160f.). The same sorts of conclusions are drawn by Brennan (2016) who describes most of the electorate as hobbits or hooligans – either apathetic and ignorant or viewing politics as like a sport – a tribal identity. So while ultimate authority may rest with citizens insofar as they the possess the responsibility of selecting leaders and decision makers, citizens need not participate. Put another way: political elites act, citizens react (Strömbäck *ibid.*).

tolerance. Democracy thrives with people engage in public life and different types of political action, when they bond through their activities, and when the develop democratically sound attitudes' (Strömbäck 2005, 335f.)[131]. The process is 'never-ending' and 'evolving' and forges 'public ends' through 'the act of public participation' (Barber 2003, 151-152). Participative democracy encourages community and empowerment (Ferree et al., 297)[132].

The fourth model of democracy is deliberative democracy, which holds much in common with participatory models. We will address this model in much more detail below (section 5.2.1.), so we will be brief. At its heart is the principle that democracy must do more than simply pronounce the conclusions drawn from an elite, but if it is to possess legitimacy, the laws and policies that are to emerge must be justified and justifiable. Gutmann & Thompson say that the

[131] Benjamin Barber defines participatory democracy as (Barber 2003, 151):

> The future of democracy lies with strong democracy – with the revitalization of a form of community that is not collectivistic, a form of public reasoning that is not conformist, and a set of civic institutions that is compatible with modern society. Strong democracy is defined by politics in the participatory mode: literally, it is self-government by citizens rather than representative government in the name of citizens. Active citizens govern themselves directly here, not necessarily at every level and in every instance, but frequently enough and in particular when basic policies are being decided and when significant power is being deployed. Self-government is carried on through institutions designed to facilitate ongoing civic participation in agenda-setting, deliberation, legislation, and policy implementation (in the form of "common work").

[132] There is some debate as to whether it not it need foster civility between voices. Some argue that all that is needed is that people are participating in the political processes and forming citizen groups to shape the debate. Ferree quotes Randall Kennedy in saying that there ought to be an 'insistence upon grappling with the substance of controversies: and a willingness to fight loudly, openly, militantly, even rudely…', suggesting they might be empowering and through mobilisation, function as forming a more inclusive public sphere (*ibid.,* 298). There is certainly the conviction that participation is a fundamental component of citizenship. To quote Barber again (Barber 2003, 155):

> 'To be a citizen is to participate in a certain conscious fashion that presumes awareness of and engagement in activity with others. This consciousness alters attitudes and lends to participation that sense of the '*we'* I have associated with community. To participate is to create a community that governs itself, and to create a self-governing community is to participate. Indeed, from the perspective of strong democracy, the two terms participation and community are aspects of one single mode of social being: citizenship. Community without participation first breeds unreflected consensus and uniformity, then nourishes coercive conformity, and finally engenders unitary collectivism of a kind that stifles citizenship and the autonomy on which political activity depends. Participation without community breeds mindless enterprise and undirected, competitive interest-mongering. Community without participation merely rationalizes collectivism, giving it an aura of legitimacy. Participation without community merely rationalizes individualism, giving it the aura of democracy.'

first and most important characteristic of deliberative democracy 'is its *reason-giving* requirement' (2004, 3). But beyond this they also argue that the reasons given in the course of democracy must be accessible to all whom are being addressed, that they are directed towards the end of producing binding decisions – it is not simply argument for its own sake, and that they are dynamic – the dialogue that is opened in the course of deliberation is ongoing and that the argument might change, develop, evolve as progress is made, new facts emerge, new reasons given. (*ibid.,* 4-7)[133].

The final position we will also return to below (5.2.3.). Ferree et al. accounts for it as the Constructionist position, but below I place it under the heading of a Philosophy of Difference. The position, often associated with Iris Marion Young or Agonistic philosophers like Chantal Mouffe, is distinct from the previous four positions in that it is a more overtly critical, even oppositional position, questioning the liberal commitment to individualism as well as value neutrality and impartiality as promoted by Rawls or Dworkin. Generally speaking, this stance is indebted to Foucault in questioning prevailing institutions and arrangements, examining them for hidden inequalities and power structures. For instance, they are critical of much discussion of the 'political' as it appears to hive off one facet of life for particular attention at the expense of other, called private or domestic areas of life.

Within this position, a strong normative value is placed on popular inclusion, that many voices should be included in democratic deliberation, privileging the marginalised. In the first place this holds the advantage of widening the scope of voices, but extending the range of options and implications that can be imagined (Ferree et al. 2002, 307-308). Secondly, it promotes 'de-

[133] Deliberative democracy takes a less equivocal stance regarding civility than its participatory sibling, recalling that proponents of conflicting viewpoints are still members of the same community, and while they must discuss and debate vigorously, they ought to resist the urge to demonise their opponent or regard them as treasonous. James Hunter, for instance, argues that the rights to engage in public debate and discussion ought to correspond with a series of responsibilities. For instance, the right to participate corresponds with the responsibility to speak appropriately, the right to dissent with the responsibility to debate and so on (Hunter 1994, quoted in Ferree et al. 2002, 304).

centering'. Gurevitch sees this as a recognition that as much as I am the centre for me, the person I am dialoguing with is the centre for her. He writes that 'through making strange and experiencing otherness, the two sides of dialogue can be realised. When the participants are not concerned with mutual adjustment to some image or future understanding of the dialogue, there here-and-now frame becomes predominant' (Gurevitch 1988, 1189). In other words, this position holds there is no longer necessarily any single public sphere or expectation that discourse will happen in a single place or under a single set of expectations. Where voices are required to operate under conditions such as these, they risk losing what is distinctive to them – but where they speak from their own centre, under their own pre-suppositions, they retain their uniqueness and their own insights and contributions[134].

6.2.3. The Rule of Law

[134] The normative expectations of these five approaches to democracy and their implications they possess for media distribution and the establishment of a public sphere vary. In short, procedural models have very little in the way of normative implications for individuals. There is slightly more to say for institutions and for journalists in that they need to ensure that procedures are adequate publicised, including any necessary guidelines. For competitive democracies, or liberal representative democracies, the normative implications are slightly higher, although not significantly so. In addition to the demands of procedural democracy, individuals may have an obligation to have adequate information to make a personal decision prior to an election but beyond that, not so much. There are greater expectations on institutions and journalists in that people need to be informed regarding the candidates and headline issues, both in regard to what they intend to do, but also in respect to how they have performed.
The normative expectations of participatory and deliberative democracies are significantly greater. For the former, there is the expectation that individuals will seek to participate in various ways in the democratic institutions within their communities and well as society at large. This may be through mainstream political engagement, or it may be through more local, grassroots organisations, or it might be through issue groups, and what counts as participation may vary within those different contexts. Participation will require individuals to be adequately knowledgeable regarding the issues and concerns, including the relevant facts of the matter, they are engaging over. Institutions and journalists, in addition to the expectations noted for liberal representative democracy, would be expected to provide facts and information necessary to inform citizens and to prepare them for participation. Civility and mutual respect are regarded as optional (Ferree et al., 2002). Deliberative democracy shares a great deal with participatory democracy and so has a similar set of expectations. Individuals would be expected to be knowledgeable and informed, but more than that they would be expected to engage with one another with clear, supported reasons given for their positions, and a sincere willingness to listen to others' points of view and a readiness to change their minds if met with better arguments. Here, civility and mutual respect are not optional. The expectations upon institutions and journalists would be largely similar here to those regarding participatory democracy.

The rule of law is often held to be an essential component of liberal democracy – even to the extent of being as fundamental to this as liberalism and democracy themselves (Tamanaha 2008, 517). Indeed, some ('thicker') conceptions of the rule of law place it as a mutually supporting principle with democracy, emphasising its relationship to liberal principles of freedom and equality (Tommasoli 2012, 2).

When we speak of the rule of law in day-to-day conversation, we have in mind the principle that no-one should be above the law, that the same sets of laws and regulations should govern all people, from the person on the street to government ministers, even to members of the Royal family. While this is an important dimension of the rule of law, it is a richer notion than that. Waldron summarises it as the demand that people, organisations, even departments of government are obliged to 'exercise their power within a constraining framework of well-established public norms rather than in an arbitrary, *ad hoc*, or purely discretionary manner' (Waldron 2020, 3). Even this demands a certain amount of unpacking.

The rule of law can be said to have a long history. Bingham traces it back to the Magna Carta, through the Petition of Rights, the Bill of Rights, the American and French revolutions to the United Nations Declaration on Human Rights in 1950 (Bingham 2010, 10-33). Waldron includes Aristotle, Locke and Montesquieu (Waldron 2020, 6-10). Either way, most agree that the definitive starting point for conceptualising the rule of law is Dicey's account in his introduction to Constitutional Law in 1885. He presented three senses by which we can understand the rule of law. First, 'that no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land' (Dicey 1959[1885], 188). At the heart of this is the final section – there must not be special spheres of law for separate groups or people or institutions – if somebody is to be punishable, they must be so on the same sorts of bases that anybody else would be punishable. Second, 'not only that with us no man is above the law, but (what is a different thing) that here

every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals' (*ibid.,* 193). This reflects the typical, common, understanding of the rule of law but again, Dicey's attention rests on the second part – all persons, regardless of station, are to be tried in the same courts, according to the same laws. Third, 'the constitution is pervaded by the rule of law on the ground that the general principles of the constitution (as for example the right to personal liberty, or the right of public meeting) are with us the result of judicial decisions determining the rights of private persons in particular cases brought before the courts' (*ibid.,* 195). In this he sees the law and the English constitution as developing, growing, primarily through judge-made law, in contrast to grand, sudden declarations and changes ('being made at one stroke', *ibid.,* 196). All three of these senses are given context by Dicey's contrasting English law with that found on the continent and elsewhere, where it was not all that uncommon to have certain and specific courts for particular areas of life, or to have law sprung up as 'grand declarations of principle' (Bingham 2010, 5).

The rule of law, as conceived by Dicey, was quite narrow. It is primarily concerned with the legal equality of citizens (Waldron 2020, 10), that the law is consistent for all. However, this has developed into a considerable debate – whether the rule of law should continue as something very specific, something about the procedures that govern how we pursue justice; or should we expand it so as to draw in further elements that might, arguably, be needed to ensure justice or that we think might be implied by the rule of law. To spell out this division more plainly, Dworkin speaks of a 'rule book' conception of the rule of law and a 'rights' conception (Dworkin 1985, 11). We can see the former as (*ibid.*):

> 'It insists that, so far as is possible, the power of the state should never be exercised against individual citizens except in accordance with rules explicitly set out in a public rule book available to all. The government as well as ordinary citizens must play by these public rules until they are changed, in accordance with further rules about how they are

to be changed, which are also set out in the rule book. The rule-book conception is, in one sense, quite narrow, because it does not stipulate anything about the content of the rules that may be put in the rule book. It insists only that whatever rules are put in the book must be followed until changed.'

The rule book conception amounts, in essence, to rules about the rules – how the rules are made and how the rules are implemented. For instance, a key proponent of the 'rule-book' conception is Raz, who identifies eight principles, which include that laws should be prospective, open and clear, stable, and guided by clear and general rules (Raz 1979, 214-218)[135].

Some have proposed that this list of principles is not substantive, in that it tells us little or even nothing about the content of the law. A racist or otherwise politically extreme, indeed illiberal, government could meet these principles and so maintain their status as a nation that upheld

[135] The list in full (Raz 1979, 214-218):

- **All laws, should be prospective, open and clear** – laws should apply to future acts and not applied retrospectively, they should be public and accessible for all to see, and they should be straightforward as to their meaning.
- **Laws should be relatively stable –** laws should not change so often that people are worried in acting that the law might have changed.
- **The making of particular laws (particular legal orders) should be guided by open, stable, clear, and general rules –** if particular legal orders, relating to specific individuals, or types of individuals, or groups need to be made, then the processes that surround their writing must be 'open, stable, clear, general'.
- **The independence of the judiciary must be guaranteed –** the judiciary should be free of external pressures so that they are able to apply to the law absolute authority in their judging of cases.
- **The principles of natural justice must be observed –** 'open and fair hearing, absence of bias and the like'.
- **The courts should have review powers over the implementation of the other principles –** A very limited review, 'merely to ensure conformity to the rule of law'
- **The courts should be easily accessible –** people should be able to gain access to the law in a timely and in a reasonably economic manner
- **The discretion of the crime-preventing agencies should not be allowed to pervert the law –** for example, prosecution services should not be allowed which sorts of crimes to prosecute and which not, or to prioritise particular sets of offenders.

Raz does suggests there could be more than eight, he says it is 'very incomplete' and 'needing further elaboration and justification' (Raz 1979, 218), but that these are certainly amongst any principles that should be considered important.

the rule of law. All that is required is that the laws are accessible, stable, and so on. Raz defends this, even to the point of stating that a legal system that upheld these principles, even if it was legislating for slavery, while we wish to might consider it a worse legal system, it nonetheless excels in its conformity to the rule of law (*ibid.,* 211). He argues that to expand the concept will rapidly empty it of any useful function. If the rule of law is aligned with any and every good thing that might be associated with the law, directly or indirectly – such as democracy, human rights, etc. – then the rule of law simply becomes the 'rule of the good law' (*ibid*.)

However, others disagree. Bingham argues that "a state which savagely represses or persecutes sections of its people cannot in my view be regarded as observing the rule of law, even if the transport of the persecuted minority to the concentration camp or the compulsory exposure of female children on the mountainside is the subject of detailed laws duly enacted and scrupulously observed" (Bingham 2010, 67). Besides, there is clear scope for arguing that the sorts of criteria pointed to by Raz or Fuller ('the inner morality of law') already carry the seeds of more substantive ideas. For instance, Hart notes that the ideas of legal equality and generality that are integral to the rule of law could be said to possess a latency of justice (Hart 1961, 159). Waldron also notes that others have sought to associate the rule of law with other, more substantive ideas, such as property rights or democracy[136].

The alternative is to move towards what Dworkin called the 'rights' conception of the rule of law[137]. This approach to the rule of law holds that the law operates in some fashion in concert

[136] A related point was made by Neuberger that the rule of law, especially the principle of accessibility could make practical demands upon the institutions of justice. For instance, there needs to be proper provision of legal aid support and open and available means for individuals to discover what their rights and responsibilities are, and so, in a political and economic climate of austerity, cut-backs to legal services have a potentially severe impact upon the rule of law in a society (Neuberger 2013).

[137] Dworkin writes:

> "I shall call the second conception of the rule of law the 'rights' conception. It is in several ways more ambitious than the rule-book conception. It assumes that citizens have moral rights and duties with respect to one another, and political rights against the state as a whole. It insists that these moral and political rights be recognised in positive law, so that they may be enforced upon the demand of individual citizens through courts or other judicial institutions of the familiar type,

with moral principles such as justice or fairness. We recognise that we have in society sets of moral duties and responsibilities – we oughtn't steal, lie, cheat; we ought to be honest, deal fairly and so on. The law and morality do not map to one another, but there is the expectation that the law ought to correspond to morality in some important respects, such that, in some cases, these moral expectations may be enforced through the legal system. The rule of law, then, is not simply a set of rules about rules, but is also rules about the substance of those rules; specifically, that the rules reinforce the sets of moral duties and responsibilities that characterise it.

It is for this reason that Bingham feels able to include a chapter on human rights in his summary on the rule of law. He points to the United Nations Declaration and European Convention on Human Rights and how both tie the need to protect human rights in to the rule of law. For instance, the judgement in *Engel vs. The Netherlands (No. 1), 1976*, states that 'a wide interpretation would entail consequences incompatible with the notion of the rule of law from which the whole Convention draws its inspiration' (*para. 69*). Similarly, the judgement from *Golder vs. the United Kingdom, 1975* underlines the relationship between Article 6 of the European Convention on Human Rights and the rule of law, suggesting that the right of a fair trial is a clear 'elucidation' reflection of the principle (*para. 34)*.

All that said, while there are compelling arguments for favouring a 'rights' conception of the rule of law, we will settle for a 'rule-book' conception – it is simpler, it is plainly arguing for less and crucially, for our purposes, the latter conception will do. For instance, looking back to Raz's account: laws should be prospective, open and clear; stable; the making of laws … should be guided by open, stable, clear and general rules (Raz 1979, 214f.). These principles are drawn to

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> so far as this is practicable, the rule of law on this conception is the ideal of rule by an accurate public conception of individual rights. It does not distinguish, as the rule-book conception does, between the rule of law and substantive justice; on the contrary it requires, as part of the ideal of law, that the rules in the rule book capture and enforce moral rights." (Dworkin 1985, 11-12)

ensure that people know where they stand in relation to the law: what the law is, what is required to abide by it, who it applies to, what needs to be done in order to challenge it. The powers of public bodies, like the BBC, are put in place through government and law, and so should offer the same transparency – we should know what their powers are, where we stand in relation to those powers, and how we should challenge them. In respect to the BBC, this is a double responsibility. It has the responsibility to itself be transparent. People should know, or be able to straightforwardly find out, what its powers are and in what ways they may be impacted by it, and how they might be able to challenge its actions if they feel that these impacts extend beyond the laws and regulations that the BBC are under. But the BBC has a second responsibility here, and this extends to its role as a public service broadcaster. As a body required to inform, educate and entertain, to promote democratic engagement, to act as a public watchdog, the BBC has a responsibility to shed light on the uses of power as performed by other public bodies. So, in this way, the BBC is subject to the rule of law in its own operations but is expected to uphold the rule of law beyond them.

6.2.4. Liberal Democracy and why it matters

Throughout our discussion of liberalism and democracy, a number of common elements have persistently risen to the surface, suggesting a view of what characterises a liberal democracy. But again, much as with those two concepts, we are guaranteed no clear consensus as to what is meant by the term – for instance Bollen notes that some scholars place more weight on the democratic component and others on presence of political liberties (Bollen 1993, 1208-1209). Others have drawn in notions that we have not mentioned directly at all thus far: for instance, Perry wants to propose a commitment to the inviolability of human dignity as constitutive of liberal democracy (Perry 2010, 10-11). Nonetheless, we suggest that liberal democracy is understood as a system of political democratic governance, characterised by a commitment to

freedom and equality, and undergirded by principles of the rule of law and that these extend to a basic system of human rights and the use of public reason[138].

But why does this matter? Specifically, why does this matter for this study or this framework? It matters for two reasons: first because this is the context in which the BBC is operating. If the BBC, as the nation's primary public service broadcaster, is to be responsible in its deployment of recommender systems, then it is to be responsible in the context of liberal democracy. In other words, if the BBC were to be seen as operating in opposition to, or even simply in indifference towards the priorities of liberal democracy, then a strong case could be made that it was not acting responsibly[139]. By the same token, the deployment of recommender systems would then also need to running to the same ends if it were to be seen as responsible. Second, and more specifically, the four core duties of the analytic framework can be seen to be embedded in liberal democracy, such as to say that if they were (if they even could be) evoked outside of the context of liberal democracy, they would look very differently.

Again, we will go into detail regarding the four core responsibilities below, but to summarise, human rights and capabilities are also often appealed to as a necessary component in support of liberal democracy. We see above, in Hampton, Dworkin and Rawls, direct allusions to the value that human rights brings in the context of liberal democracy; that various rights and freedoms – freedom of expression, association, conscience – are vital in a healthy liberal democracy. Similarly, Sen and Nussbaum's accounts of capabilities see them as supportive of and supported by democracy (Sen 1999, 287-288; Nussbaum 2011, 32-34, 77-79). While proponents of a politics of difference are often direct in their criticism of liberalism, in particular the degree to which it prioritises the individual over group solidarity (Young 1990, 166-167), there

[138] Practically speaking, there is likely to be points of variation between this liberal democracy and that. For instance, to describe a society as liberal democratic is not to bind it to specific model of democracy or the same expectations of how public reason is to be engaged with.
[139] Of course, this is already underlined by the requirement under the Charter Art. 6 (1), that the BBC should prepare individuals to be able to engage and participate with the democratic processes of the nation.

is a clear sense that there remains value in the liberal principles of equality and, differently, freedom (*ibid.,* 173; Wenman 2013, 5). There is also a clear relationship to democracy here – seeing democracy as a 'necessary and proper vehicle' to social justice and is a primary means of inclusion (Young 2000, 5)[140]. Epistemic Trust, like Deliberative Democracy, is grounded in democracy from the start, orientating around the procedures of democracy, specifically elections and the deliberative processes. The extent to which liberal democracy depends upon people voting for candidates and policies on the basis of reasonably well-informed background knowledge, reveals the interrelationship of liberal democracy to these principles.

So, as we turn to examine these core duties in more detail and consider what light they show on the precise concerns at the heart of this study, we must keep in mind the place that this whole question holds within and in relation to liberal democracy. At the most fundamental level, this whole study is concerned with liberal democracy. The BBC and its operations take place within the context of a liberal democracy, its responsibilities are, at bottom, responsibilities to support and maintain the principles of liberal democracy. Likewise, the responsibilities of our analytic framework are equally embedded in the nation as a liberal democracy and are directed towards its support and maintenance.

6.3. The four core responsibilities of the analytic framework

6.3.1. The place of democratic deliberation

Table 6.3.1 – To Support the Place of Democratic Deliberation
Focusing on the deliberative, discursive dimensions of our political processes, considering how we come to collective decisions of how we think society as a whole should be governed

[140] Benhabib writes that for most defenders of agonistic democracy, the 'historical legacy of liberalism – the rule of law, individual rights, value pluralism, constitutional guarantees' need to be 'upheld one way or another' – the question for many scholars in the field is one of balance between that legacy and the 'conflictual and contestatory nature of all democratic politics' (Benhabib 1996, 9).

and shaped. The BBC has an important role in that process as the nation's public service broadcaster – it possesses a primary voice in informing citizens regarding the key issues, but also in preparing people to engage with one another is rational, mutually respectful ways.

Table 6.3.1., like the three tables that follow, is drawn directly from Table 6.1 above. The third column in each offers a brief elaboration of each responsibility, drawing them into the orbit of the core responsibility they serve.

2. Serve all audiences	Charter Art. 5, [5.1.1.]	Service needs to be delivered to all, so all have equal exposure to information and content
3. Provide impartial, high quality and distinctive output	Charter Art. 5. [5.1.1.]	Citizens need to be presented with high quality content that is impartial in order to deliberate.
4. Inform, educate, and entertain	Charter Art. 5, [5.1.1.]	(See also 25a.) To be informed and educated are vital as a precondition to effective deliberation
7. Help people understand and engage with the world around them	Charter Art. 6(1), [5.1.2.]	Deliberation is benefited by enabling people to understand and engage with the world
8. Champion freedom of expression	Charter Art. 6(1), ECHR Art. 10, [5.1.2.]	Freedom of expression enables people to freely communicate ideas and investigate their own thoughts, as well as opening them to a right to receive information – all essential in the

		deliberation of collective decision-making.
9. Support learning	Charter Art. 6(2), [5.1.2.]	Learning, in all senses, facilitates deliberation
12. Reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions	Charter Art. 6(4) [5.1.2.]	Deliberation between different communities will be aided by having understanding of others. Similarly, all parties will be more willing to deliberate openly if they feel represented.
19. Present news accurately and with due impartiality	Ofcom Standards Code, Communications Act 2003 Art. 319(2)(c) and (d), (8), Art. 320, ECHR Art. 10 [5.2.]	Accurate and impartial news reporting is essential to the ends of deliberative democracy
25. Support the freedom of expression, including the right to receive information	ECHR Art. 10 [5.3.1.]	(See also 8., including 25a-25e) Democratic deliberation will be healthiest where the freedom of expression is respected and defended
25c. Remain independent	ECHR Art. 10, Council of Europe - 4th Ministerial Conference – The Media in a Democratic Society, Resolutions 1 & 2), Recommendation No. R(96) 10, On the Guarantee of the Independence of Public Service Broadcasting, [5.3.1.]	The BBC needs to be independent if it is to be trusted as source of information in the context of deliberation

25d. Aid 'cultural diversity and identity, information, pluralism, social cohesion, the promotion of fundamental freedoms and the functioning of democracy'	Council of Europe, *Resolution of 25 November 2010 on public service broadcasting in the digital era: the future of the dual system,* Statement C, [5.3.1.]	The understanding of diversity, and the plurality of society and identity, as well as underlying cohesion and the principles of democracy will promote the value of deliberation.
34a. To promote and support democracy, to function as the 'integrator of democracy'	Reith 1924, Reith 1949, Hendy 2013, Blumler 1992a, Hoggart 1993 [4.2.1]	Acting as an 'integrator' of democracy suggests bringing the public to a decision-making state
34b. To provide a universal service, social cohesion, to foster national identity	Reith 1949, Tracey 1998, Broadcasting Research Unit 1986, EBU 2012, Freedman 2008 [4.2.2.]	Social cohesion promotes a common overall vision even where disagreements occur in deliberation
34c. To reflect, represent and serve diverse communities of the UK	Tracey 1998, Broadcasting Research Unit 1986, EBU 2012, Blumler 1992a [4.2.2.]	Deliberation is best accomplished where communities and groups understand one another
34d. To educate and enrich the worldview of its users	Reith 1924, Reith 1949, Tracey 1998, Scannell 1992, Freedman 2008, Hendy 2013 [4.2.3.]	Deliberation and public reason giving is most successful when well informed
34e. To provide an independent, impartial public service	Reith 1949, Broadcasting Research Unit 1986, Hoggart 1993, EBU 2012, Scannell 1990, McQuail 2010 [4.2.4.]	Democratic deliberators need to be provided with impartial, independent information.

Drawing from Table 6.1.1., we see that there is a cluster that we can set apart that all are concerned with making an adequate space for citizens where ideas, opinions, information and

so on may be shared with the view to supporting their democratic engagement. There is a recognition that the BBC, as the nation's primary public service broadcaster, is in a unique place to bring society's diverse voices together, to bring them into contact, and ultimately, to host the nation's disagreements with itself. Put in other words, it presents itself as the foremost forum where British society deliberates. We see this reflected in several of the responsibilities we considered. These call for the BBC to 'serve all audiences' in (amongst other things) supporting civic engagement, informing democratic debate, providing impartial distinctive, accurate information, to inform, to educate, to entertain all the while supporting freedom of expression and reflecting, representing and serving all of the diverse communities of the UK. This is valuable for a multitude of reasons; in offering the possibility of representation and engagement, we are exposed to new ideas and we benefit from the sterilising effect publicity brings to ideas that hidden would be poisonous to society. But mostly, this cluster of responsibilities boil down to promoting two primary benefits; aiding democratic engagement and encouraging social solidarity – the sense that, despite our many differences and disagreements, if we are enabled to engage with one another in a spirit of civility and mutual respect, as well as offering clear, sincere reasoning for our positions, we will be more able to come together as a single, healthy, democracy.

So, the first core responsibility facing the BBC is that it ought to promote the priorities we have seen as characteristic of deliberative democracy. This is not to say that the BBC is, in any sense, bound to promoting that model of democracy, as a kind of official, authorised, version. The BBC's responsibility to promote civic engagement, to inform democratic debate, and so on could be understood as supporting a model of representative democracy – to prepare citizens in readiness for upcoming elections and this might serve as a minimum. However, it is arguable that it extends further into the normative demands of democracy, calling on citizens to debate, discuss, and engage with the ideas, to provide and defend their reasons for the claims they make upon others.

What do we mean by deliberative democracy? In sum, we can consider that 'deliberative democracy refers to a conception of democratic government that secures a central place for reasoned discussion in political life' (Cooke 2002, 53)[141]. Gutmann & Thompson observe that while the sound of moral argument may be familiar to all sorts of public life, real deliberation is neglected in political life – too often all that is presented is sound bite and glib competition for point scoring (Gutmann & Thompson, 1996, 12). Politics, they say, suffer from a 'deliberative deficit'.

Cohen offers a more fulsome summary (Cohen 2007, 219):

> "Deliberation, generically understood, is about weighing the reasons relevant to a decision with a view to making a decision on the basis of that weighing. So an individual can make decisions deliberatively; a jury has a responsibility to deliberate; a committee of oligarchs can deliberate: deliberation is not an intrinsically democratic matter. Democracy is a way of making binding, collective decisions that connects those decisions to the interests and judgements of those whose conduct is regulated by the decisions. The essential idea is that those subject to the decisions are treated as equals by the processes of making the decisions, including agenda-setting and preference formation, as well as collective decision making."[142]

[141] Dyyzek comments on what he calls the 'deliberative turn', suggesting that it emerged from the field of political philosophy as a discreet point of discussion around 1990 (Dyyzek 2010, 3). Since then it has stretched out, extending into a series of distinct variations, each with their own focus or function. The 'institutional turn' focuses on 'the shape taken by particular forums', 'mini-publics' of smaller groups that might include local assemblies or national bodies like the US Supreme Court (ibid., 6). A 'systemic turn' considers 'whole systems'. Dryzek notes that there have been several approaches of this sort, but that, in general, we might see these as encompassing everything from talk amongst citizens to formal debate in the legislature (ibid.,7-8). The 'practical turn' moves away from purely theoretical consideration of the problem and looks to see how such deliberative forums might be established. Similarly, an 'empirical turn' looks to establish empirical analyses drawn from examining examples of deliberation in the wild. Dryzek states it is more common that social scientists will focus on examples from the 'institutional turn' above as these are easier to consider than broader systemic approaches (ibid., 8-9).

[142] He adds that "deliberative democracy is not an exclusively political project: deliberative democracy requires attention to encouraging deliberative capacities, which is, inter alia, a matter of education, information, and organisation" (Cohen 2007, 220)

Two features of deliberative democracy warrant highlighting. The first is that deliberation throughout our democratic processes is a necessary (but not sufficient) condition for ensuring their legitimacy. This association has been flagged up time and again (Manin 1987; Benhabib 1996; Cohen 1997; D'Entréves 2002) and typically begins from the liberal concern with pluralism, that there are many different worldviews and ideas in play throughout society that conflict and remain fundamentally incompatible, especially regarding the ways in which society should be governed. In this, the state often produces forms of obligations that place demands upon the actions of individuals – such that they are required to do what they might not want to do. So the state requires some way to make consistent the sets of obligations that are likely to be generated with the basic liberal principles of freedom and equality (Talisse 2012, 211). To square this circle, it is argued that the obligatory power mobilised by the state must be legitimate. Benhabib proposes that it is a 'necessary condition for attaining legitimacy and rationality … that the institutions … are so arranged that what is considered in the common interests of all result from processes of collective deliberation conducted rationally and fairly among free and equal individuals' and that the more institutions are founded on deliberative processes, the more legitimate they would be (Benhabib 1996, 69). She writes (*ibid.,*70):

> "The basic idea behind this model is that only those norms (i.e. general rules of action and institutional arrangements) can be said to be valid (i.e. morally binding) which would be agreed to by all those affected by their consequences…"[143]

[143] She continues, noting that the deliberation must have the following features:

1) Participation in such deliberation is governed by the norms of equality and symmetry; all have the same chances to initiate speech acts, to question, to interrogate, and to open debate;
2) All have the right to question the assigned topics of conversation;
3) All have the right to initiate reflexive arguments about the rules of the discourse procedure and the way in which they are applied or carried out."

If a state and its policies are to be legitimate, then everyone who is impacted by those policies (if they are situated beyond the boundaries of the relevant state, then they too) ought to have some input into the development of those policies and so be party to the deliberations that produce them and have some say as to modes of deliberation.

Furthermore, she argues that these processes improve the overall rationality of decision making. Deliberative processes impart information to those involved and engaging as people are required to support the reasons they offer in deliberation with factual evidence. The processes aid individuals to prioritise their preferences and what issues are important. Finally, they demand that reasons are articulated clearly and persuasively – improving the quality of reasons (*ibid.,* 71-72).

This leads us to the second feature – the role of public reason and reason giving. Deliberative democrats, albeit in different ways[144], propose that a key dimension of deliberation is the central role given to reasonable disagreement and debate. Rawls' conception of public reason is often presented as a starting point, even as many move beyond it, it is primarily concerned to the decision-making processes conducted by 'government officials and candidates for public office' (*ibid.,* 133), and not with what he calls the 'background culture', which includes churches, institutions, media and so on (*ibid.,* 134, n.13)[145]. The ideal of public reason can be engaged with by those who are not officials, if they think of themselves '*as if* they were legislators' (*ibid.,* 135). Nonetheless, citizens can and do engage in public reason so long as they abide by the 'criterion of reciprocity'. This requires 'that when those terms are proposed as the most reasonable terms of fair cooperation, those proposing them must also think it at least reasonable for others to accept them, as free and equal citizens, and not as dominated or manipulated, or under the pressure of an inferior political or social position' (*ibid.,* 136-137). In other words, the bottom line for my participating in public reason is that I can reasonably

[144] For instance, without wishing to delve into a survey of contrasting positions, Saward (2002) suggests that there are substantial differences between the models presented by Cohen, Dryzek, Gutmann & Thompson and Rawls – some placing deliberation primarily in state forum contexts, others extending it wider beyond state forums. Rawls, in particular, Saward holds not to genuinely be a deliberative democrat whatsoever, and not purely because he is not committed to democracy in the same manner as the others, but because he considers that Rawls is not really placing deliberation in the public sphere, but is restricting it to government agencies – where citizens deliberate, they do so as though they were officials (Saward 2002, 114-117).

[145] He states that it 'specifies at the deepest level the basic moral and political values that are to determine a constitutional democratic government's relation to its citizens and their relation to one another. In short, it concerns how the political relation is to be understood' (Rawls 1999, 132).

conclude that all those impacted by my proposals would at the very least understand and accept my reasons.

Other thinkers have elaborated the ideas that characterise deliberation further. Cohen (1997), for instance, states that, in ideal deliberation, it is first free, in that they are bound only by the results of the deliberation and that participants suppose that they can act from the results; second, that reasons are given for 'advancing proposals, supporting them or criticising them' and that those reasons alone will set determine the outcome of those proposals; third, that parties are 'formally and substantively equal'; and that finally, the goal of the deliberation is to 'arrive at a rationally motivated consensus' – that some reason or reasons given will ultimately be persuasive to all (Cohen 1997, 74-75). Alternatively, Gutmann & Thompson (2004) suggest that reason giving demands that reasons are accessible, which is to say that they should be comprehensive and comprehendible; they must be moral, in the sense that they are not self-interested or in some way corrupt, that they are generalisable – they would apply to others in morally similar circumstances; they are respectful, recalling the principle of reciprocity noted above; and revisable, in other words, open to revision in the face of superior counter-arguments (Gutmann & Thompson 2004, 144-159).

Various defences have been offered for deliberative democracy. Cohen (2007) offers three reasons why we should favour it, as do Gutmann & Thompson (1996). Cooke (2002) offers five reasons in defence of it, arguing that it offers educative power and amounts to a 'good in itself each', that it has community generating power, that the procedure is fair, and supports the epistemic quality of the outcome (feeding into our second core responsibility)[146]. However, she

[146] **Educative power** – This point is echoed by Cohen (2007, 228) and Gutmann & Thompson (1996, 42) and draws on the thought of Mill and Arendt amongst others. These two see participation in public affairs as a 'good in itself'. Individuals are given the opportunity to improve their 'moral, practical and intellectual qualities' (Cooke 2002, 55). However, she doubts that this, on its own, would stand as an effective defence of deliberative democracy. It is unclear what it is about deliberation, as apart from participation, that produces educative effects. Either way, the educative effects should only be seen as a side-effect and could be considered the genuine aim of deliberation (ibid., 56).

considers that the reason most persuasive was simply the congruence of the ideal of politics articulated by deliberative democracy with 'who we are'. While the previous four reasons do offer support to deliberative democracy, Cooke argues that they all require further support. She holds that this fifth reason provides that. It is supported in one way or another by many defenders of some variety of deliberative democracy or public reason, such as Rawls, Habermas, Cohen, Benhabib, Dworkin. She holds that this argument is comprised of two elements (ibid., 63):

1) There are certain key normative conceptions of knowledge, of the self and of the good life that are so central to modern Western history and traditions that we can no longer choose whether to accept or reject them.

Community generating power – This sort of approach is appealed to by those who have promoted communitarian models of democracy[146], but does also show up in some liberal approaches as well as 'discursive' thinking (Habermas, Benhabib). Deliberative democracy can be seen as 'a process of 'ideal role-taking' in which participants are forced to think of what would count as a good reason for all others involved in, or affected by, the decisions under discussion' (ibid.). Habermas refers also to Arendt when he says, when thinking about a discourse-led theory, that 'legislation depends on the generation of another type of power, namely, on the communicative power that, as Hannah Arendt says, no one is really able to "possess": "Power springs up between men when they act together, and it vanishes the moment they disperse"' (Habermas 1997, 147). In other words, the process of deliberation forces a creative dynamic between those deliberating since they are required to engage with one another and to try to see the world from each other's perspective. The act of doing this encourages a connection and a basis for ongoing community. Despite all this, Cooke holds that this reason too fails to offer adequate support for deliberative democracy for similar reasons – the community generating dimension can also be seen as a by-product rather than the primary aim.

Fairness of the procedure – This reason is grounded on the procedure of democracy. Generally speaking, a procedural view of democracy would hold that so long as the procedure is fair, then the outcome will be fair. Deliberative democracy can be understood as expanding the scope of what counts as procedure in this sense – that procedure includes the process of deliberation. For defenders of this approach, such as Cohen or Benhabib, 'a democratic decision is fair or legitimate in so far as they are produced by a fair deliberative procedure' (ibid., 58). The more that the electorate is free and equal in its opportunity to deliberate, the more it is a fair procedure. Cooke considers that a problem with this approach is that it is guilty of begging the question – what counts as fairness?

The epistemic quality of the outcome – This approach moves from considering the procedure to considering the outcome in that 'public deliberation contributes constructively to practical rationality of democratic outcomes' (ibid., 60). She continues: 'public deliberations have a cognitive dimension: they are concerned with finding the best way of regulating matters of public concern, whereby the 'best way' is judged according to standards of rationality that have a certain objectivity' (ibid.) In other words, public deliberation is understood to get closer to the facts of the matter, and consequently, to increase the likelihood of producing better policies and outcomes. Cooke holds that this argument, like the others accounted for above, is not, in itself, adequate to support deliberative democracy. In the first place, she holds that the epistemic standard of rationality remains unclear, but secondly, it does not give a clear account of how 'deliberation contributes constructively to the rationality of outcomes' (ibid., 61).

2) A deliberative model of democracy makes best sense of these normative conceptions.

Examples of what these normative conceptions include (ibid., 63-64):

- There are no authoritative standards independent of history and cultural context that could adjudicate claims to epistemic validity.
- Autonomous reasoning is valuable part of human agency.
- Publicity is important, especially in the realms of law and politics.
- Everyone is, in principle, deserving of equal respect as an autonomous moral agent.

She says (ibid., 64):

> "The ideal of deliberative democracy fits well with these normative conceptions. If there are no authoritative standards of scientific, legal, political or moral validity independent of history and cultural context, and if knowledge is still deemed possible in these areas, then some alternative means of deciding between rival justifications has to be found. If, in addition, knowledge in these areas is construed fallibilistically – that is, if it is seen as never final and conclusive but always open to challenge and revision in light of new evidence and arguments – open-ended, unconstrained rational argumentation seems the most appropriate forum for adjudicating rival claims'.

To come at this from the opposite direction, to exclude the role of deliberation as a decisive component of democratic procedure would run counter to these normative conceptions of who we are.

This argument recalls observations that have been made about the foundations of liberal democracy, especially the grounding it had in the Enlightenment, as the basis for the social and

culture in the United Kingdom. The Enlightenment was marked by a new confidence that we could understand and make sense of the world – physical and later moral and social. But just as important for Enlightenment thinking and its transition into democratic thinking as the toppling of the old idols, the traditional authorities, is the ongoing recognition that we might be wrong and needing correction. Some new insight we have might look plausible now, and the evidence might appear to support it, but new evidence may come along, or a change of circumstances may occur, that demand that this insight is corrected. In this we can recall what Bernstein calls the 'democratic ethos' – which should be understood more as an attitude, the way in which democracy is done – 'an ethos that conditions and affects how discussion, debate, and argumentation are practiced' (Bernstein 1995, 3; see also Bernstein 2014, 76, where he talks of fallibilism as an 'attitude or virtue'). He goes on, drawing inspiration from Dewey (*ibid,* 3-4):

> "When Dewey speaks about 'debate, discussion and persuasion' he is not simply referring to the formal rules of communication. His major concern is with the ethos of such debate. For democratic debate (ideally) requires a *willingness* to listen to and *evaluate* the opinions of one's opponents, *respecting* the views of minorities, advancing arguments in *good faith* to support one's convictions, having the *courage* to change one's mind when confronted with new evidence or better arguments. There is an ethos involved in the *practice* of democratic debate. If such an ethos is violated or disregarded, then debate can become hollow and meaningless."[147]

The thrust of deliberative democracy[148] is closely related to the traditions of liberal democracy and the normative conceptions stemming from the Enlightenment and part of the life and soul

[147] By the same token, Bernstein elsewhere talks of 'creative democracy' (Bernstein 2000, 226). We must be creative in our attitudes, in our own cultivation of democratic habits and virtues. But he continues that there must also be a sense in which our expectation is that democracy itself is creative. It must be ready to 'anticipate the contingencies and the new situations we confront' (*ibid*.)

[148] Unsurprisingly, there has been criticism of deliberative democracies. The first eight chapters of Deliberative Politics: Essays on Democracy and Disagreement (ed. Macedo, 1999) (Gutmann & Thompson's text) each raise a series of objections, although naturally they have Gutmann & Thompson's

of British culture. At the same time, it sits firmly within the responsibilities that we have identified as constituting the framework of obligations that face the BBC, relevant to their deployment of recommender systems.

To sum this up, then, the core responsibility of supporting the place of democratic deliberation is, at the bottom line, to prepare and enable people to deliberate with one another as part of their democratic engagement. In this it needs to enhance the knowledge and understanding that people have of the world, its processes and their fellow citizens. Deliberation requires rational engagement with others, and so to be prepared to deliberate is to be prepared for reason-giving, to account for one's position and to be willing to engage with the positions of others, including to be willing to change or adjust one's own views. To give them up, if necessary. If the BBC is to be assessed as responsible in its deployment of recommender systems, there must be efforts to meet this core duty.

6.3.2. Our need for epistemic trust

Table 6.3.2. – Our Need for Epistemic Trust

This core duty concentrates on the truth claims that play an integral role in the discourses we engage with in society. It considers the central role that knowledge has, and how important it is that we have grounds to trust that the claims our fellow citizens make. Our political

conception of it primarily in view. For instance, Schauer proposes that since they are less interested in epistemological claims but primarily the effect that deliberation has upon the procedure of democracy, and that they are keen to limit what counts as genuine deliberation (talk-show discussion shows and tabloid presses do not count), that in the end the value of Gutmann and Thompson's proposals look elusive. Bell considers that Gutmann & Thompson focus too squarely on the principles of deliberation and fail to give sufficient weight to its implementation. Shapiro argues that the authors' 'emphasis on deliberation attends too little to the degree to which moral disagreements in politics are shaped by difference of interest and power' (29). Of course, there are other criticisms. However, as I said in my introduction, I am less interested in pursuing a conclusion to these discussions, but more so recognising and highlighting the headline issues that are pertinent to the field of political philosophy, particularly as it relates the BBC's use of personalised media content recommendations.

deliberations are founded on claims to fact, and these deliberations, within a democracy, result in policies and laws that demand collective sets of obligations. If our fellow citizens disregard the importance of facts, such that I lose epistemic trust in their votes, this carries a potential knock-on to the extent that I feel that the government or a set of laws is legitimate. Much like with deliberative democracy, the BBC plays a vital part in this as the nation's public service broadcaster, often being people's first source of key information regarding present current affairs (for instance, during the Covid-19 pandemic, the BBC proved the most-sought and most-trusted source of information regarding the disease and the conditions of lockdown.)		
4. Inform, educate, and entertain	Charter Art. 5, [5.1.1.]	Where people are well informed and educated there will be greater epistemic trust
5. Broadcast in the UK's indigenous minority languages	Charter Art. 14(5), BBC 2015 [5.1.2.]	Broadcasting in all UK's languages supports engagement and the epistemic weight of claims within communities
6. Provide impartial news and information	Charter Art. 6(1), [5.1.2.]	Impartial news and information facilitates greater degrees of trust and assurance.
7. Help people understand and engage with the world around them	Charter Art. 6(1), [5.1.2.]	Greater epistemic trust supports understanding, but greater understanding also increases trust
8. Champion freedom of expression	Charter Art. 6(1), ECHR Art. 10, [5.1.2.]	Unless ideas can be freely expressed and shared, it is difficult to truly promote

		epistemic trust with the deliberating community
12. Reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions	Charter Art. 6(4) [5.1.2.]	Understanding between the various communities of the UK will increase trust. Feeling represented with engender trust between communities
14c. Serve as an independent and trusted guide as access to information grows, helping audiences understand the world around them and make sense of competing views	BBC 2018, [5.1.2.]	Gaining trusted insights into global news and communities will provide reliable information, supporting trust
19. Present news accurately and with due impartiality	Ofcom Standards Code, Communications Act 2003 Art. 319(2)(c) and (d), (8), Art. 320, ECHR Art. 10 [5.2.]	Accurate and impartial news reporting is vital to promoting and supporting epistemic trust in the course of deliberation.
23. Maintain editorial independence, ensuring distinction between programming and advertising	Ofcom Standards Code, Communications Act Art. 319(2)(fa)(i) and (j), (4)(a)(c)(e) and (f), Art. 321(1) and (4), Art. 324(3), Broadcasting Act 1990 Art. 202, ECHR Art. 10 [5.2.]	To be a reliable grounding for epistemic trust, the BBC as broadcaster needs to be evidently independent
25. Support the freedom of expression, including the right to receive information	ECHR Art. 10 [5.3.1.]	(See also 8., including 25a-25e) Unless ideas can be freely expressed and shared, it is be difficult to truly promote

		epistemic trust with the deliberating community
25d. Aid 'cultural diversity and identity, information, pluralism, social cohesion, the promotion of fundamental freedoms and the functioning of democracy'	Council of Europe, *Resolution of 25 November 2010 on public service broadcasting in the digital era: the future of the dual system,* Statement C, [5.3.1.]	Understanding between the various communities and identities with the UK will increase trust. Feeling represented with engender trust between communities. This will support the functioning of democracy.
33. Not to interfere with the processes of elections and referendums	Representation of the People Act 1983, [5.3.3.]	Trust between communities in the process of deliberation is supported where the democratic decision-making process is transparent and without interference.
34a. To promote and support democracy, to function as the 'integrator of democracy'	Reith 1924, Reith 1949, Hendy 2013, Blumler 1992a, Hoggart 1993 [4.2.1]	Epistemic trust is justified in its support for democratic legitimacy
34b. To provide a universal service, social cohesion, to foster national identity	Reith 1949, Tracey 1998, Broadcasting Research Unit 1986, EBU 2012, Freedman 2008 [4.2.2.]	Epistemic trust is vital in cohering a society
34d. To educate and enrich the worldview of its users	Reith 1924, Reith 1949, Tracey 1998, Scannell 1992, Freedman 2008, Hendy 2013 [4.2.3.]	Epistemic trust relies upon reliable informational sources.
34e. To provide an independent, impartial public service	Reith 1949, Broadcasting Research Unit 1986, Hoggart	Information, if it is to be trusted, must be impartial.

	1993, EBU 2012, Scannell 1990, McQuail 2010 [4.2.4.]	

The question of epistemic trust[149] flows directly from our inclusion of deliberative democracy[150]. The two are intimately connected. Deliberation between parties requires, by definition, communication and meaningful communication relies significantly on the parties trusting one another to some degree, especially in matters of justice or democracy, where people, who may well disagree, are required to come together to make complex decisions about the workings of our common communities and that will likely have binding impacts on all (O'Neill 2020, 4). In a democracy, we vote on these issues. Your vote is worth the same as mine, so you have the same degree of influence on the eventual decisions made that I do. Consequently, I have an interest in your vote, especially if more people vote like you than me. If your side wins, and decisions that are binding, on me as well as on you, are made that I disagree with, I have an interest in the reasons that you had for voting the way that you did. The epistemic status of your vote matters to me. This is to say that I care about the facts that you would appeal to in the reasons for that vote, and that they were secured to yourself with adequate care. To come at this another way, if you told me that your vote was decided because you trusted the word of a known liar, or that you had been offered magic beans in return for it, or somesuch, or perhaps by choosing the

[149] An aside, but one that looks forward to section 6.3.4. and the discussion on the development of capabilities, is that trust is a necessary dimension of human life, both individually and socially. Puentes-Rivera et al. point out that trust figures highly Maslow's famous pyramid of needs, not only regarding the individual themselves, but also as part of their social relations. For this reason, informational quality and the development of trust in democracy is valuable not only for societal health but also for the wellbeing of the individual (2021).

[150] There has been increased reference to epistemology in relation to democracy and its processes – Landemore (2017) calls this the 'epistemic turn of deliberative democracy'. However, arguments in this 'turn' have forked in two distinct, albeit related, directions. This section is concerned with one of those directions – that the trust that comes between potentially rival voters relies upon the conviction that their votes, and their respective justifications, have adequate epistemological foundations. The other, perhaps more prominent in the literature – dating to Joshua Cohen's seminal paper '*An* Epistemic Conception of Democracy' (1986), concerns the role of truth in democracy.

candidate at random, I might have some ill-feeling towards that vote, especially if the consequences appeared to me very negative or were likely to oblige me to act in ways I disagreed with or felt were not in my interests. This dynamic has repercussions for the legitimacy of those decisions. A key argument in favour of democracy is that it produces legitimacy – the decisions made are legitimate because they were the product of the people and so carry weight adequate to produce in me an obligation to act according to them. If I begin to feel that my fellow voters were voting irresponsibly, that their reasons were not to the task of justifying their votes, I may begin to doubt the validity and thus the legitimacy of the democratic process.

Several of the responsibilities we saw in table 6.1 give rise to this core responsibility (specifically see table 6.3.1.). Underlying these responsibilities is the conviction that being informed is better than not being informed, that impartial information is more beneficial for our democracy than partial, that accuracy is better than inaccuracy, that editorial independence is better than serving some specific set of interests and so on. It is worth recalling, as a starting point, the words of Asser (quoted by O'Neill), that 'the law serves primarily to cultivate trust' (O'Neill 2017). Each of these all highlight the role that epistemic trust can play in support of democracy and social cohesion. Where voters are better informed and offer better contextual awareness of the issues that face their communities, they are prepared to make better decisions and to be able to offer more substantial justifications for those decisions such that, even if others' do not agree, they are understood as reasonable and defensible.

At the heart of epistemic trust are insights drawn from social epistemology[151]. Buchanan offers a personal example of the moral and prudential risks of social epistemic dependency

[151] An argument that is adjacent to those concerning epistemic trust, and holds some useful parallels, I think, is W.K. Clifford's account of the ethics of belief. At the heart of the argument is the story he tells of a shipowner who, knowing that there might be doubts regarding the seaworthiness of his ship, decides, on account of the costs and delays, to put these worries to one side. After all, the ship has made many successful voyages. Needless to say, the boat sinks, the shipowner collects the insurance, and he 'told

(Buchanan 2004, 95). Having grown up in one of the Southern states, he was surrounded by racism, often graphic, and that as a child and young adult he had absorbed that 'knowledge' through his family, pastors, teachers and officials. Fortunately for Buchanan, he was able to leave his environment for college and realise the error of his community, noting that these false beliefs not only opened him up to a moral risk, but also prudential risk (*ibid.*,96). While for him his upbringing was particularly toxic, the processes Buchanan experienced were not unusual – it is a central feature of social epistemology that knowledge acquisition is a public process as much (if not more) than a personal one (Goldman 2019, 1-3). Buchanan notes that the 'two best confirmed sociological generalisations are that in all societies, individuals' beliefs are strongly influenced by their social surroundings, and that most of us seriously underestimate the extent to which this is so' (Buchanan 2004, 98).

In order to reduce the moral and prudential risks that follow from our 'ineliminable social epistemic dependency' (ibid., 99), Buchanan suggests that we would benefit from certain key liberal institutions. These would promote 'freedom of thought, conscience, expression and association, and democracy understood as the institutionalised opportunity for all to participate as equals'; and, ensuring a 'comparatively large role for merit in the social identification of reliable sources of belief (epistemic authorities)', in other words, individuals will

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no tales' (Clifford 1877). On account of the belief held, the ship sets sail and the passengers died. Regardless of the sincerity of the shipowner's convictions, Clifford states that he is guilty of the passengers' deaths because 'he had no right to believe on such evidence as was before him'. Even if the ship should have arrived safely with no loss of life, the shipowner is still guilty – he 'would not have been innocent, he would only not have been found out'.

While someone might object that it is not the belief that is at stake but rather the action that follows it. Clifford is keen draw attention to the dependency on which our actions have on our beliefs – our actions are products of our beliefs. Poor epistemic hygiene (Clark 2015, 9) will lead to poor moral outcomes – he says: 'The credulous man is father to the liar and the cheat' (Clifford 1877). In conclusion he states: 'It is wrong always, everywhere, and for anyone, to believe anything upon insufficient evidence' (ibid.). If we turn to what Clifford considers as offering sufficient grounds for judging a belief reasonable, we must be able to trust the veracity of the claim – that the person is speaking sincerely; the knowledge that rests behind it – whether the person has had opportunities to be properly informed; and the judgement of the person – that they will have made the best of those opportunities. As we turn to the discussions above, we will find that some of the concerns that Clifford highlights are broadly the same concerns that are in view for Buchanan, Estlund, Fuerstein etc..

have a fair and equal opportunity of gaining and being recognised as possessing expertise in relevant issues. This would itself promote an 'epistemic egalitarianism', which would reflect the possibility of regular folk to be willing to challenge or question what was told them by 'socially identified authorities' under certain circumstances and be willing to engage and listen to others' claims and arguments.

What Buchanan is driving at, and what is key for our purposes, is that institutions are better to the extent to which they promote epistemic trust. In other words, they are better to the degree to which they enable us – by offering us acceptable recourse to evidence and factual support **-** to put faith in the claims of institutions and others, that we can consider them reliable sources of information. False beliefs tend to put our ability to act morally in jeopardy (as per Clifford, *n.152*), and, by the same token, prudential and moral actions benefit from true factual beliefs (Buchanan 2004, 107). If it is the case that our beliefs come in part from our social institutions, then our acquisition of true factual beliefs is dependent on their epistemic reliability – this should be of concern.

Fuerstein redirects our attention to the observation that liberalism is concerned with how political power might be justified, and he holds the view that political power must be justifiable to all citizens – calling it the 'liberal principle of justification' (LPJ) (Fuerstein 2012, 1). There are several reasons why this is important, but Fuerstein is keen to home in on the epistemic dimension of justification, and not just the degree to which reason-giving might be important for the individual, or how it might contribute to the deliberative dimensions of democracy. He proposes that 'epistemic trust is essential to democratic governance because as citizens we can only make informed decisions by relying on the claims of moral, scientific and practical authorities around us…' and that 'we must also rely heavily on the say-so of others' (*ibid*., 2). So, it is not simply a matter of trust in the various information giving sources within a democracy – that the information that they give is grounded adequately upon the best views of the facts – but

we must also trust our fellow participants in a democracy, that they have for themselves secure reasons for their vote. Furthermore, given the 'radical inclusiveness' of modern democracies – everybody gets a vote – Fuerstein comments that that epistemic trust is 'uniquely fragile' (*ibid*., 3).

Unpacking these last few lines: when we consider what we mean by epistemology, and thus the 'epistemic dimension' or 'epistemic trust' and so on, Fuerstein defines this as a 'concern with fidelity to how things are… the adoption of true beliefs, the rejection of false' and so on (*ibid*., 4). This impacts our political world in various ways. There is the relation between the individual and political world – the candidates and the claims made by the candidate, but also claims that are made by others, claims made by the media and other information sources that an individual might refer to and rely upon. There are, of course, many moral claims made in the course of politics; *x* or *y* ought to be outlawed/legalised, more money should be spent on *p*/less on *q*. We might not consider that these claims have truth value, nonetheless they are dependent upon factual claims (the effects of *x* are…, the cost of *p* is…, etc.) and so they have an epistemic role to play all the same. So, when claims are made by a candidate or any other source, it is important that an individual is able to trust that claim. Fuerstein defines epistemic trust as follows (ibid., 5):

> "To have epistemic trust in a speaker is to be disposed to accept her claims because of the belief that the speaker is sufficiently epistemically reliable, where reliability concerns both the epistemic competence of the speaker – the likelihood that her beliefs are true – and her sincerity – the likelihood that she will represent what she believes accurately."[152]

[152] The second sense comes in that citizens are epistemically interdependent. In a modern liberal democracy, an individual is not only dependent upon a handful of candidates, but on 'massive collections' of fellow voters. The outcome of an election is the outcome of (often) millions of people all voting on the basis of their own convictions, and each of those are founded upon claims that have their

Fuerstein points to a paper by Baumann & Brennan (2009) entitled *What Should the Voter Know? Epistemic Trust in Democracy.* Like Buchanan, they point initially to social epistemology and draw from Goldman, who states that 'democracy is successful… when the electorate has *full core knowledge*', which is where 'every voter knows the true answers to his or her core question[s]' (Goldman 1999, 326), and includes questions about 'candidates past records, their policy platforms and promises, their ideologies, their personalities, skills, and political competencies, their debts to interest groups, and so forth' (Baumann & Brennan 2009, 161).

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own epistemological statuses. These votes are tallied and on the basis of where the majority fall, governments are chosen and begin to enact their policies. These policies, therefore, are a 'function of the epistemic status of others' beliefs' (*ibid*., 6).

With this in mind, Fuerstein summarises the LPJ, and in doing so points towards deliberative models of democracy. The LPJ requires at least the following. As citizens we must:

a) Present our reasons for political action in the public forum for all to assess, where this entails aiming to reach the broadest possible audience.
b) Respond to the objection presented in that forum.
c) Modify our political actions in a way that is sensitive to the results of our public deliberations.

He adds (*ibid*., 9):

d) execute (a), (b) and (c) in a way that respects at least basic epistemic constraints on reasoning, evidence, and belief.

It is plain to see that the LPJ points towards a clearly deliberative framework where the expectation is clear that individuals will be encouraged, if not obliged, to be able to offer reasons for their position. Fuerstein recognises that while to expect all citizens on all occasions to offer reasons to this sort of high standard would be utopian, it is to be encouraged and pursued. However, there are risks and difficulties that need to be considered. The threats of incompetence, where individuals or sources of authority lack the skills or capacity to draw reliable conclusions regarding an issue; or of insincerity, where information might be mis-represented for dishonest reasons. These threats are compounded by the nature of political deliberation, which are high-stakes, complex, suffer from conflicting values and at risk from bad incentives (*ibid*., 10-12).

These threats pose two challenges (*ibid*.,13f.):

a) To create a citizenry with the sorts of capacities and dispositions that tend to make them epistemically reliable.
b) To foster the requisite confidence among citizenry of others' epistemic reliability.

Undoubtedly both of these challenges are important, but the second is more acute for our purposes right here. Fuerstein suggests that in the context of a fraught political environment, there carries the additional risk of an 'insidious feedback loop wherein (perceived) difference in political value undermine epistemic trust which in turns fuels unreliable behaviour, which in turn further undermines trust, and so forth' (*ibid.*, 15). Fuerstein points to the Prisoner's Dilemma thought experiment and notes that once the prisoners cease trusting one another, then all bets are off when it comes to cooperation. Once one prisoner behaves unreliably and thus in an untrustworthy fashion, it becomes in the other's self-interest to cease co-operation – 'distrust begets unreliability which begets further distrust'.

The remedy is found in 'credibility monitoring' – establishing a framework where reason-giving is prioritised and that reliable and unreliable voices may be identified (*ibid.*, 19f.). Fuerstein continues, 'if one knows that inhabits an epistemic environment of sufficiently widespread monitoring, one is much more likely to have confidence, as a matter of fact, that testimony from putative is in fact reliable' (*ibid.*, 22).

To Goldman, the primary vehicle for this knowledge is the press[153], although we could easily extend this to news media covering different models of media distribution. Goldman writes (Goldman 1999, 340):

> "Ideally, the press should comprise a set of experts who would report, interpret and explain political events in a way that serves the veritistic interests of voters, especially their interest in core voter knowledge. Since ordinary citizens cannot be expected to acquire such knowledge entirely on their own, and since successful democracy depends on their acquiring such knowledge, the responsibility of promoting and facilitating this knowledge naturally falls to the press."

Of course, there are barriers to this role being fulfilled; Goldman highlights the profit motivation of commercial media companies and that journalists typically have insufficient training and thus knowledge in the matters that they are reporting (*ibid.*). They add that many news outlets, especially on television, are prone to prioritise stories that are sensational and highlight conflict and adversity, rather than potentially more important stories about agreement and reconciliation (*ibid.,* 341).

Baumann & Brennan consider that the role of trust is of vital importance for democracy. It relates most straightforwardly between the citizen and the representative, but trust also has a role to play between citizens, especially in regards the epistemic division of labour (Goldberg, 2011). They propose that for the individual, there are three broad groupings of epistemic sources: political experts and public explainers, the anonymous group of fellow citizens and

[153] Trust is plainly an important dimension in how news media is perceived. Where investigations into the quality of news media are pursued, trust is always a key indicator looked for. How to unpack trust and articulate what it means and what it requires has been a constant challenge for social scientists. Ritter & Holcombe (2023) offer a survey of recent approaches, including Kohring & Matthes (2007) who frame trust in regards selectivity of topics and facts, accuracy and assessment, the API (2016), who include accuracy, completeness, presentation, transparency, balance, convenience and entertainment, the Knight Foundation (2018) expanded this to 36 indicators, while Schmidt (2019) who shifts focus to how trust is perceived in marginalised communities.

members of their personal networks (Baurmann & Brennan 2009, 184). But while there are three sources, it is the first that is most potent, since it is the foundation of the second and third[154]. There are two issues here: First, the issue of trust and trustworthiness and how that can be seen as vital for the health of our democracy and the relationships between citizens.

[154] Political experts and public explainers are most commonly present in the professional media and ought to possess 'officially licensed indicators of scientific competence and academic expertise'. In relation to this they pose a crucial, rhetorical, question (Baurmann & Brennan 2009, 178):

> "What conditions are condusive to a widespread trust in the 'official' epistemic sources in a democracy? To answer this question one has to answer another question: namely, by what means do average citizens judge the quality of the prevailing social and institutional mechanism for identifying (political) experts and authorities in a society? How do citizens become confident that these mechanisms do serve to indicate competence, reliability and trustworthiness?" (ibid., 178).

A related but distinct variation on this argument is produced by Watson (2018), who argues in favour of epistemic rights. Despite most discussion of rights in this sort of sense, not extending to this field (Watson points to William James and Leif Wenar, concluding that the former is more concerned with rights as a justification for belief, and the latter is unduly constraining his discussion to privilege rights), Watson argues that we ought to propose the existence of epistemic rights as claim rights. In this she is holding to the Hohfeldian schema of rights, which regards claim rights as an obligation for people not to act in a certain way towards me, that there us a duty for them not to act that way. She proposes that the is an arguable right to 'knowledge, information, understanding and truth in the mainstream media'; that, 'in a democracy, the role of the media to provide an accurate and informative representation of societal and political issues and events amounts to a duty or obligation to fulfil this role' (Watson 2018, 92), and adds that the requirement is already present in the Editor's Code of Practice in the IPSO guidelines. Obviously, this argument overlaps a great deal with the argument that we have been describing regarding epistemic trust. However, the object in the arguments are distinct in that one has the media in view, whereas the other has, in the first instance, one's fellow citizens. The latter must include the former – if I am to trust my fellow citizens they must have widespread access to accurate information, but epistemic trust demands also more than this. It requires a cultural backdrop of respect and inclusivity – an acceptance that there will be those that disagree with me and that do so for justifiable reasons. In short, epistemic trust stretches from the prior focal point present in deliberative democracy and reaches the next, a politics of difference.

The personal experiences and insights of fellow citizens in regard to political issues and politicians – in relation to this 'social trust', the authors propose that there is a continuous range between two extremes. At one end there is a presumption epistemic trustworthiness, where the assumption prevails that the person or group is epistemically competent unless there is some clear reason to doubt it. At the other is to extend epistemic trustworthiness is a 'highly particularistic way', i.e. dependent on membership of some specific group or allegiance. What governs which extreme is gravitated towards and by how much is highly context dependent, but it is plain that the latter extreme is a serious threat, as it limits the amount of available knowledge. People mistrust one another and knowledge banks risk becoming balkanised. The authors conclude presciently (Baurmann & Brennan 2009, 185):

> "Processes of trust erosion are also multilayered and interrelated. Suppose that individuals were to limit their personal trust networks to a peculiar group of people; and that these people exhibited particularistic social trust, and one moreover that includes only people who mistrust the official experts and epistemic institutions. Suppose each sub-group were to insist exclusively on the credibility of 'alternative' experts. Then trust in the sources of collective knowledge might well break down in a cascade".

In sum, the core responsibility of promoting our need for epistemic trust amounts to promoting an environment where citizens are enabled to locate and rely upon epistemically reliable information as they form, deliberate and justify their positions, and, in the scope of democracy, vote. In this it needs to enable people to recognise competent experts and authorities and develop the practical reason necessary to assess arguments and information carefully. Ultimately, the goal, or the aspiration, of this responsibility is to develop a state of social cohesion, where trust forms a basis for the legitimacy of democratic power.

6.3.3. The recognition of difference

Table 6.3.3. – The Recognition of Difference

This core duty is directed to the fact that British society is not homogenous but is fundamentally diverse. In a wide, cross-cutting, number of ways, people differ from one another, and sometimes in fundamentally contradictory ways. Following from what has been called the politics of difference, this core responsibility represents a challenge to liberalism. For instance, and this is a simplification, when deliberative democracy expects citizens to engage rationally with one another, it neglects the possibility that there might be different ways in which this might be understood. At the same time, the politics of difference affirms the coherence of the wider society and the value of inclusion for, despite our differences, we are nonetheless all citizens, with a common identity (alongside our non-common identities). The BBC has a clear duty to reflect and represent and engage with all citizens and so it must grapple with all aspects of our similarities and differences, both personal and collective.

2. Serve all audiences	Charter Art. 5, [5.1.1.]	The BBC must offer services that respond to all audiences – all communities and outlooks

4. Inform, educate, and entertain	Charter Art. 5, [5.1.1.]	To be informed and educated will enable awareness of other communities and viewpoints
5. Broadcast in the UK's indigenous minority languages	Charter Art. 14(5), BBC 2015 [5.1.2.]	In order to respond to the needs of the wider communities of the UK, the BBC must broadcast in modes that are accessible to each communities' need.
8. Champion freedom of expression	Charter Art. 6(1), ECHR Art. 10, [5.1.2.]	All voices within the community, including those on the margins, and even outside, need to be accessible and available for consideration.
11. Develop fresh approaches and innovative content	Charter Art. 6(3), [5.1.2.]	Different communities express themselves in different manners, the BBC must be open and ready to explore and champion new, potentially radical, expressions.
12. Reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions	Charter Art. 6(4) [5.1.2.]	The BBC must offer services that respond to all audiences – all communities and outlooks. Representation is vital for a democracy seeking to seriously engage with difference.
14. Reflect the United Kingdom, its culture and values to the world	Charter Art. 6(5) [4.2.3.2.5.]	By engaging with the global landscape, reflecting the UK outwards, nonetheless involves

		engaging with global perspectives of the UK, which will remain a vital resource in enabling UK broadcasting to speak to diverse, non-mainstream, communities.
18. Ensure that religious programming stays within the guidelines	Ofcom Standards Code, Communications Act 2003 Art. 3(4)(j), Art.319(2)(b), ECHR Art. 9, 10 & 14 [5.2.]	Religious programming can, if unchecked, promote intolerant attitudes. Similarly, religious programming can, if encouraged, reveal outlooks often hidden from the mainstream.
25. Support the freedom of expression, including the right to receive information	ECHR Art. 10 [5.3.1.]	(See also 8., including 25a-25e) Freedom of Expression demands that even less-desirable voices, marginal or outsider points of view are expressed freely
25e. Facilitate modes of media pluralism	ECHR Art. 10, Council of Europe, *The Declaration on the Freedom of Expression and Information* (1982), Statement 6, [5.3.1.]	As noted elsewhere, pluralism has many applications, but if the BBC is to respond to the needs of all communities a plurality of outlooks (even conflicting ones) must be presented. Further, content must be accessible across a

		variety of platforms to ensure widest access.
34a. To promote and support democracy, to function as the 'integrator of democracy'	Reith 1924, Reith 1949, Hendy 2013, Blumler 1992a, Hoggart 1993 [4.2.1]	Even when difference is highlighted, democratic decision-making is still valued
34c. To reflect, represent and serve diverse communities of the UK	Tracey 1998, Broadcasting Research Unit 1986, EBU 2012, Blumler 1992a [4.2.2.]	To promote the recognition of difference, an appreciation of the diversity of UK society is required
34d. To educate and enrich the worldview of its users	Reith 1924, Reith 1949, Tracey 1998, Scannell 1992, Freedman 2008, Hendy 2013 [4.2.3.]	Following from 34c. for difference to be recognised, reliable information must be available
34e. To provide an independent, impartial public service	Reith 1949, Broadcasting Research Unit 1986, Hoggart 1993, EBU 2012, Scannell 1990, McQuail 2010 [4.2.4.]	While defenders of a politics of difference are sceptical of impartiality, overt partiality, especially in respect to vested interests would be obstructive

It is a central motif of public service broadcasting that it is to provide a universal service – that in it all people, from every community, will be recognised, reflected and represented. This can be seen not only conceptually, but in the Charter, in the demand that the BBC is to provide 'a valuable service for all' and that users will experience the 'diverse communities of the nation'. While deliberative democracy and epistemic trust are both of importance, especially when we consider how they contribute to our democratic discussions and engagement, some scholars have felt that deliberative democratic thinkers in particular have failed to realise that some groups and communities have not been fully recognised and included. The focus here shifts

from the role that public service broadcasting has for the quality of democratic participation to extend that question, expanding to include representation.

Under this heading we could consider a cluster of approaches and thinkers. At heart, they look to draw attention to 'the fact of heterogeneity rather than on the hope of homogeneity' (Allen 2011, ix) and in doing so offer some critique of liberalism and its concentration on the atomised individual and belief in the value of public reason as a universal principle. As always, there is much literature in this field, but here I am interested only in drawing the common idea that it is essential that diversity within society is to be recognised and celebrated. It is beholden upon the BBC in its deployment of recommender systems to distribute their content to ensure that the things that differentiate us within society are given a proportionate weight to the things that are held in common. In doing so, I will direct my attention primarily at the work of Iris Marion Young and her classic work *Justice and the Politics of Difference*, extending to other thinkers and arguments where appropriate. In Annex X, I offer a far more detailed account.

Young's work starts from the question of social justice, which she defines as the 'elimination of institutionalised domination and oppression' (Young 1990, 15). Attention is typically directed to the sense by which justice is understood as distributive, focusing on the sharing out of resources, burdens and benefits – e.g. wealth or patterns of distribution. While there are good reasons to direct attention towards distribution, they neglect the social structures and institutional contexts within which injustices occur – arenas such as the family, the state, the workplace, and civil society. By thinking of social structures instead, we shift our focus to social power, considering the relative positions of the person(s) who have power to those for whom power is deployed, drawing our attention to the individuals who have power, the specific agents, and the structures within which they operate and which secure their position. Young offers the example of a judge, who may be said to hold power over a prisoner. What matters is less the specifics of that judge relative to the convict but more the institutions and structures that

enable the judge to have power and which support and facilitate the judgements made (*ibid.,* 32-33).

Structural injustice is experienced more keenly by social groups, which Young defines as 'a collective of persons differentiated from at least one other group by cultural forms, practices or way of life' (*ibid.,* 43). These groups overlap and intersect in a variety of ways and a person will likely be a member of multiple groups at once – groups of class, race, gender, sexual identity, for example[155]. Social groups are not to be thought of aggregates of people, nor simple

[155] A significant challenge to Young on this point is that her approach amounts to little more than identity politics, simply asserting group specificity, resulting in the evacuation of public space of coalition and cooperation, and producing confrontation and separation (Young 1997, 213). She quotes Jean Elshtain:

> "To the extent that citizens begin to retribalize into ethnic or other 'fixed identity' groups, democracy falters. Any possibility for human dialogue, for democratic communication and commonality, vanishes as so much froth on the polluted sea of phony equality. Difference becomes more and more exclusivist. If you are black and I am white, by definition I do not and cannot in principle 'get it'" (ibid., 214; quote taken from Jean Elshtain, Democracy on Trial, 1995)

Young accepts there may be some representatives of some groups that may have adopted a position like the one Elshtain describes, but she rejects that should be viewed as a politics of identity. She recognises from the outset that there are numerous conceptual dangers in identity politics; namely, essentialism, the existence of divergent values, and intersectionality. She recognises 'dilemmas of difference' which observes that 'focusing on what differentiates a group from others and defines a common identity' is likely to set up group borders that wrongly exclude' but at the same time 'to deny a reality to social groupings both devalues processes of cultural and social affinities and make political actors unable to analyse patterns of oppression, inequality and exclusion' (ibid., 218).

When considering groups, we should not define them according to sets of essential attributes – to do so is reductive and denies the likelihood of divergent values and experiences within that group. Young proposes that what defines a group is the relations in which the members stand to others. These can be understood as structural relations – relatively permanent constraints and enablements that condition people's actions and possibilities; these are relations of hierarchy and inequality – denoting differential relations of power, resource allocation and normative hegemony, e.g., class, gender and/or race (ibid., 218f.). Rather than thinking of an individual, or groups, as having certain attributes that define them, Young follows Pierre Bourdieu in considering the social world as a set of fields, each of which is constituted by structural relations of power, resource allocation or prestige. Social agents are understood in terms of their relation positions in these fields. This positioning process occurs prior to individual subjectivity – both ontologically and historically. She writes: 'persons are thrown into a world with a given history of sedimented meanings and material landscape.... We find ourselves positioned, thrown, into the structured field of class, gender, race, nationality, religion and so on' (ibid., 220). Thinking of groups in this way allows for the possibility, even likelihood, that there may be some who do not share attributes with the proposed group at large, and yet to continue to recognise that the group exists.

Young also makes use of Sartre's notion of seriality, which again allows us the ability to consider social groups without risking identity politics. In an earlier essay she wrote on this, she said, "unlike a group,

associations, but instead, they are marked by affinity. Young suggests Heidegger's conception of 'thrownness' – in the same way that, as humans, we find ourselves 'thrown' into the world, left to make sense of it subsequently; we are thrown into social groups, where we find an affinity with others in the same boat (*ibid.,* 46). This is essential when we consider the part that groups may or can play in a liberal democracy marked by pluralism.

As we have noted, considering Rawls and Dworkin's summary of liberalism, a liberalism that prizes equality will focus its energies on procedural elements rather than substantive, adopting (in Rawls' terms) a non-comprehensive stance, holding back from adhering to any expansive conception of the good, since, to do so, would inevitably favour some groups (who share that conception) to the detriment of some other groups (who do not). Instead, the focus should be on the procedural elements, ensuring that the procedures of democracy are impartial, in principle, favouring none or all.

This is where the politics of difference kick in. Impartiality is often held up as a primary point of aspiration in moral thinking, but Young is not persuaded – this stance 'corresponds poorly to the social relations typical of family and personal life…; it requires not principles that apply to all people in the same way, but a nuanced understanding of the particularities of the social context, and the needs particular people have and express within it' (*ibid.,* 96). Impartiality – the attempt to avoid partiality or any sort of preference between different groups or parties or individuals – can only be achieved by 'abstracting the particularities of the situation' – removing,

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which forms around actively shared objectives, a series is a social collective who members are unified passively by the objects around which their actions are orientated or by the objectified results of the material effects of the actions of others" (Young 1994, 724). Sartre offers the example of a queue for a bus, in that despite their differences, they are – for a time – united in a certain set of interests. Young proposes that the same model can be understood more substantively and been extended to broader and more fundamental categories of individuals, e.g. farmers, women, different ethnic groups, etc.

Viewing groups in this way enables us to avoid the problems of identity when we are at risk of essentialising these groups and thus excluding some from that group, as well as constraining individuals' identity. When coupled to intersectionality, we begin to see how difference might be harnessed to offer insights.

or pretending remove, one's feelings, affiliations, perspectives from our viewpoint. When this sort of 'universalist ideal' is adopted, cover is provided for ideological hierarchies and threaten the exclusion of some from full participation in society (*ibid.*). Where the urge is to 'think things together', in the sense of binding them, in order to 'reduce them to a unity', to 'find the universal, the one principle, the law, covering the phenomena to be accounted for' (*ibid.,* 99), we find points of difference are eliminated, or at least repressed[156].

The irony of this is that it often comes from thinkers, such as Rawls, who are aiming to recognise the 'fact of pluralism' and would see the 'plurality of selves as a necessary starting point' (*ibid.,* 101). Young argues, for example, that Rawls' 'original position', along with the 'veil of ignorance', masks genuine differences between participants. This veil forces us to demonstrate disinterest in not only our own concerns, but also those of others – there is to be no discussion between participants, no engaging with different parties' particularities. We are called to be impartial, but this drives towards a dichotomy between the public and the private. The public, as presented by liberalism and liberal thinkers, is marked by the pursuit of impartiality. She writes: "modern normative political theory and political practice aim to embody impartiality in the public realm of the state" (Young 1990, 107). As laudable as this might be in certain respects – 'for the civic

[156] It is worth quoting Young at length here (*ibid.,* 100-101):

> "Impartial reason aims to adopt a point of view outside the concrete situations of action, a transcendental 'view from nowhere' that carries the perspective, attributes, character, and interests of no particular subject or set of subjects. This ideal of the impartial transcendental subject denies or represses difference in three ways. First, it denies the particularity of situations. The reasoning subject, emptied of all its particularity, treats all situations according to the same moral rules, and the more the rules can be reduced to a single rule or principle, the more this impartiality and universality will be guaranteed…
>
> Second, in its requirement of dispassion, impartiality seeks to master or eliminate heterogeneity in the form of feeling. Only by expelling desire or affectivity from reason can impartiality achieve its unity…
>
> Third, the most important way that the ideal of impartiality reduces particularity to unity is in reducing the plurality of moral subjects to one subjectivity. In its requirement of universality, the ideal of impartial reason is supposed to represent a point of view that any and all rational subjects can adopt, precisely by adopting from the situational particularities that individualize them. The impartial moral judge, moreover, ideally should treat all persons that it no longer resembles any actual, possible, view whatsoever."

public to express the universal and impartial point of view of reason', resisting, therefore, the contaminants of individual or group desires or sentiments or interests, and so thus ultimately attaining a sort of unity and homogeneity – it has the consequence of pushing these facets of life into the private sphere.

The impartial, homogeneous, rational public is contrasted with the bodied, passioned dimension of the private, where much of a person's life consists – their body, their family, their relations. Aside from the basic impossibility of this idealised division – as though a rational agent were so able to leave these facets of themselves aside so easily (*ibid.,* 103) – Young argues that it has further ideological repercussions. She says it undergirds the idea that the state is neutral and provides legitimating support for it and further it perpetuates the risk of oppression by 'hypostatizing the point of view of privileged groups into a universal position' (*ibid.,* 112). If we believe lawmakers to be impartial, we are more likely to hold the conclusions they draw to be better than those drawn by others, who may not be seen as impartial. Young writes:

> "Where social group differences exist, and some groups are privileged while others are oppressed, this propensity to universalise the particular reinforces that oppression. The standpoint of the privileged, their particular experience and standards, is constructed as normal and neutral. If some groups' experience differs from this neutral experience, or they do not measure up by those standards, their difference is constructed as deviance and inferiority....
>
> The ideal of impartiality legitimates hierarchical decision-making and allows the standpoint of the privileged to appear as universal. The combination of these functions often leads to concrete decisions that perpetuate the oppression and disadvantage of some groups and the privilege of others." (*ibid.,* 116)

In order to assert social justice, then, to pursue the endeavour of eliminating oppression and domination, it is of importance that difference is recognised and welcomed and that the priority given to impartiality is dismantled. Instead, difference should be reaffirmed, and consequently that equality should be reconceived and not seen purely in terms of equal treatment – sometimes different groups warrant different treatment. A simple and uncontroversial example here would be women in pregnancy. (*ibid.,* 158). Young notes that there are advantages to groups affirming and asserting their own difference. Aside from simply having the opportunity to feel pride in their own difference, this self-re-evaluation of groups forces the majority groups to view themselves as 'other', perhaps for the first time, and have opportunity to critically reassess norms and values previously invisible. In addition, it provides a basis for group solidarity against the individualism of liberalism (*ibid.,* 166f.) Practically, then, Young argues that 'a democratic public should provide mechanisms for the effective recognition and representation of the distinct voices and perspectives of those of its constituent groups that are oppressed or disadvantaged' (*ibid.,* 184)[157]. We should, in fact, consider difference as a resource – a factor that would help and aid deliberation and the enablement of democracy[158].

[157] Instead, Young proposes 'city life as a normative ideal' (*ibid.,* 236). In cities people interact with spaces and institutions that belong to everyone and no-one in particular; there is no sense of simple unity or commonality that is able to swallow a person up. Yet, cities are characterized by groups that share affinities – families, networks, associations, neighbourhoods, and a person will be a part of any number of these and yet still extend beyond the familiar and engage with people that remain outside. In cities people are forever depending upon the 'activities of seen and unseen strangers who mediate between oneself and one's associates, between oneself and one's objects of desire' (*ibid.,* 237). City life has four virtues. (1) It allows for social differentiation without exclusion. City life allows for anonymity within which groups and affinities are able to form and develop and even splinter into new affinities, and these overlap and intermingle without ever facing the risk or expectation of developing into a homogeneity. (2) Cities promote variety, not only of groups but also of spaces. Spaces will be used by various groups, each inhabiting the space without ever truly owning it. This renders them more inclusive, more anonymous and safer. (3) There is an 'eroticism' to cities in the sense of enabling an 'attraction of the other'. Cities, on account of the almost infinite varieties of groups and outputs of those groups, there are so many opportunities to encounter the new. This is opposite of community in that there we affirm the familiar. In cities, we discover and are attracted to the unfamiliar. (4) Cities allow for publicity. Young writes: 'cities provide important public spaces – streets, parks, plazas – where people stand and sit together, interact and mingle, or simply witness one another, without becoming unified in a community of 'shared final ends'' (*ibid.,* 238-240).

[158] She considers that there are three ways 'preserving and listening across … differences of position and perspective' might transform the encounter (Young 1996., 128):

In sum, the core responsibility of the recognition of difference is found in the need to respect and appreciate the role of diversity across UK society. This includes the responsibility to accept that differences cannot always be overcome by impartiality and neutrality, or that conflict can be avoided or that consensus can be achieved. It calls us to reflect deeply on diversity and on individual's distinct identities. There is a responsibility to look for other ways of communicating and thinking about how diversity and inclusion can be understood.

6.3.4. The individual's development of human capabilities and the defence of their human rights

Table 6.3.4. - The Individual's Development of their Human Capabilities and the Defence of their Human Rights

This core responsibility concentrates on the impacts that are particular to individuals and recognises the specific, personal needs that we all have to establish ourselves as fully formed persons. As rights, it recognises the formal, institutional claims that we have upon

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> "(1) Confrontation with different perspective, interests and cultural meanings teaches me the partiality of my own, reveals to me my own experience as perspectival. (2) Knowledge that I am in a situation of collective problem solving with others who have different perspectives on the problems and different cultures and values from my own, and that they have the right to challenge my claims and arguments, forces me to transform my expressions of self-interest and desire into appeals to justice.... (3) Expressing, questions and challenging differently situated knowledge... adds to the social knowledge of all participants"

She also suggests that widening what ought to be included within the frameworks of dialogical reasoning will offer benefit. She offers three examples. First, she considers greetings, by which she means the preliminaries that frame and set up deliberations. While we may say that it is unnecessary, that nothing is truly said – there is no real assertion being made – it nothing provides a basis by which trust and respect can be built. Second, she points to rhetoric, which is intended to point to language and argumentation that is not immune to emotional appeals. Typically, deliberative democracy favours language and reasoning that is separated from emotion and sentimentality, that is impartial, but this can be cold and fails to realise the values that are in play, especially between interlocutors with significant variances in values. Rhetoric also acknowledges the degree to which communication is situated, recognising the place of the speaker and who is being spoken to, and their relative positions. Finally, Young encourages storytelling. Through presenting narratives understanding can be established and built through the conveyance of experiences. They can also prompt and facilitate sympathy as well as revealing and expanding the sources of values, culture and meaning (*ibid.,* 128-132).

one another to live our own lives – for instance, it included the liberties to religious freedom, of thought, of association, as well as more formally commented upon rights to privacy or expression. As capabilities, drawing upon the work Nussbaum and Sen, it reflects ideas vital for people's well-being and self-development, and includes individual's potential for realising and developing their imagination, thought and senses of the world, their emotions, their play, and extends back to some of the more formal issues already discussed, of the control of one's environment – i.e. through political means. The BBC engages in our collective, political environment, but first and foremost, it is engaging with individuals.		
4. Inform, educate, and entertain	Charter Art. 5, [5.1.1.]	The development of a person's capabilities (such as *affiliation* and *to (politically) control one's own* environment) requires that they are adequately informed and educated.
8. Champion freedom of expression	Charter Art. 6(1), ECHR Art. 10, [5.1.2.]	A fundamental freedom that is integral to the ECHR (as well as the UNDHR, Art. 19) and is a key component of four of the ten of Nussbaum's Capabilities Approach (4,6,7,10) (See below)
15. Protect the under 18s	Ofcom Standards Code 2020, Communications Act Art. 3(4)(h), Art. 319(2)(a), ECHR Art. 10, [5.2.]	The rights of all citizens must be recognised and protected, but the rights of children need additional attention as childhood is a crucial period of development

16. Protect people from harm and offence	Ofcom Standards Code 2020, Communications Act Art. 3(4)(g), Art. 319(2)(a)(f) and (l), ECHR Art. 10 & 14, [5.2.]	Harm and offence may inhibit the degrees to which people are able to develop their rights and capabilities
21. Avoid unjust or unfair treatment or individuals or organisations	Ofcom Standards Code, Communications Act 2003 Art. 3(2)(f), Art. 326, Broadcasting Act 1996 Art. 107(1), Art. 130, ECHR Art. 10 [5.2.]	It is vital that all individuals are protected from unjust or unfair treatment if they are to develop their capabilities
22. Avoid unwarranted infringements of privacy	Ofcom Standards Code, Communications Act 2003 Art. 3(2)(f), Art. 326, Broadcasting Act 1996 Art. 107(1), Art. 130, ECHR Art. 8 & 10 [5.2.]	(See also 26.) Privacy is a fundamental right but is also seen as foundational in the development of a person's capabilities
26. Support the right to Privacy	ECHR Art. 8 [5.3.2.]	Privacy is a fundamental right but is also seen as foundational in the development of a person's capabilities
27. Process data lawfully, fairly and transparently	UK GDPR Art. 5(1)(a) [5.3.2.]	The right to control what happens to one's personal data is vital. Without such control our right to privacy and to not be discriminated against are compromised as well as the capacity to determine our own lives – fundamental to the development of human capabilities

27a. Ensure that personal data is collected for specified, explicit and legitimate purposes	UK GDPR Art. 5(1)(b), [5.3.2.]	(Following 27) The right to control what happens to one's personal data is vital – if we do not know what it is to be used for then we have no control
27b. Ensure that personal data collected is adequate, relevant and limited to what is necessary	UK GDPR Art. 5(1)(c), [5.3.2.]	(Following 27) By the same token, excess personal data gathered undermines our control of it
27c. Ensure that personal data is accurate and up to date	UK GDPR Art. 5(1)(d), [5.3.2.]	(Following 27) If personal data is out of date, then it will be undermining our control
28. Secure consent from the data subject before personal data is processed and that consent is clear, specific, and sought for each relevant sphere of processing	UK GDPR Art. 6(1)(a), ICO Guidelines, [5.3.2.]	(Following 27) Without consent, our right to control our personal data is undermined
29. Respect the rights of the data subject, including that the data subject is informed and communicated with concisely, transparently, in an easily accessible manner, and that she is made aware what information she has a right to access	UK GDPR Art. 12, [5.3.2.]	(Following 27) The right to control our own personal information requires that we are fully informed regarding our personal data

30. Recognise the rights to rectification, erasure, restriction of processing, data portability, object, and not to be subject to decisions solely based on automated processing, including profiling	UK GDPR Art.16-22, [5.3.2.]	(Following 27) In the managing of one's personal data, we must recognise and respect the rights that that demands as fundamental to defining a person's autonomous space.
32. Not to report any false claim as fact that might lower the claimant in the estimation of 'normal right-thinking people', expose them to hatred or ridicule, or cause them to be shunned or avoided	Defamation Act 2013, [5.3.3.]	A person's capacity to develop their human capabilities requires that they are protected from defamation.
34a. To promote and support democracy, to function as the 'integrator of democracy'	Reith 1924, Reith 1949, Hendy 2013, Blumler 1992a, Hoggart 1993 [4.2.1]	Democracy is a direct means for an individual to be able to shape their political environment
34b. To provide a universal service, social cohesion, to foster national identity	Reith 1949, Tracey 1998, Broadcasting Research Unit 1986, EBU 2012, Freedman 2008 [4.2.2.]	Togetherness is an underlying value for the development of capabilities, which cannot be fully actualised in isolation from society
34d. To educate and enrich the worldview of its users	Reith 1924, Reith 1949, Tracey 1998, Scannell 1992, Freedman 2008, Hendy 2013 [4.2.3.]	Education supports the development of capabilities, especially in the domains of thought, practical reason and control over one's environment

We have already engaged with human rights, noting Articles 8 & 10 of the ECHR in Chapter 4. Since thus far the three components of the analytic framework have all been largely political with a big 'P', there is definite value in turning our attention to human rights and the related concept of capabilities as highlighted and discussed by Martha Nussbaum and Amartya Sen. Of the responsibilities catalogued, several point less to the processes of political society – how we, as a collective, make decisions – but rather attend to the sphere of individuals, their opportunity to fully develop their own lives and the respect for human rights. As mentioned, in Table 6.3.4., we noted the responsibility to support the right to privacy and the freedom of expression. We also note the responsibility to recognise data protection rights and to protect under 18s and people from undue harm and offence. However, we recognise the imperative to inform, educate and entertain – to enable people to develop and expand the scope of people to extend their imagination, thought, emotions, their sense of the world and crucially play – all of which are essential in the building a person's capabilities. This core responsibility may not be political in the overt sense of being concerned with democracy or deliberation, but it is still political in that it is preparing people for engagement with one another, enabling people to take control of their environment.

In this section, I will outline the relevance of talking about human rights, discussion of human capabilities, their relationship to the deployment of recommender systems by the BBC.

Starting with human rights, we note first that there is much discussion amongst philosophers as to what rights[159], and more specifically human rights, are. As ever, we need not to wade into the debate, but in summary we might begin with Griffin's definition which sees human rights as 'protections of our human standing', in particular our personhood (Griffin 2008, 33). Nussbaum, who we will consider in more detail below, offers a little more detail. She considers a human

[159] Wenar (2020) offers a summary general definition that rights are 'entitlements (not) to perform certain actions, or (not) to be in certain states; or entitlements that others (not) perform certain actions or (not) be in certain states' (Stanford)

right to involve ‘an especially urgent and morally justified claim that a person has, simply by virtue of being a human adult, and independently of membership in a particular nation or class, or sex, or ethnic or religious or sexual group’ (Nussbaum 2001, 228). Of course, this still leaves plenty of room for debate and disagreement as to their nature and what those claims might include. Some, like Bentham, consider the whole idea ‘dangerous nonsense… nonsense on stilts’ (Bentham 2001, 124). Others consider them meaningful in respect to some sets of rights (what are often called natural rights – rights that offer protection for the individual against interference or coercion, or, more bluntly, against unwarranted infringements to their autonomy – protecting their life, liberty, recognition, privacy protecting them from torture, arbitrary arrest and so on), but not others (welfare or economic rights – for instance, political participation, membership of a trade union or social security) (e.g. Cranston 2001, 166). Others again, including Nussbaum and Sen but also the writers of the United Nations Declaration on Human Rights (UNDHR), consider that there are grounds to justify welfare and economic rights.

What is agreed upon (by most) is that the foundation of human rights is the status the person has as a human being[160]. The foundation of humanness is recognised in the International Bill of Human Rights. In the preamble to the International Covenant on Civil and Political Rights, it states that the UNDHR describes "the inalienable and inviolable rights of all members of the human family” (OHCHR, Fact Sheet #2, 4). This is underlined by articles 1 & 2 which points to ‘all human beings’ being ‘born free and equal in dignity and rights’, and that ‘everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind’ (see also Perry 2010, 15-17). Beyond articles 1 and 2, articles 3-20 cover what are often considered natural rights, whereas Articles 21-30 cover economic or welfare rights. On the face of it, these rights address the needs of individuals. However, thinkers like Sen and Nussbaum place these

[160] Again, there is some disagreement quite what this entails. If mere membership of the species is proposed, then some consider this ‘speciesism’ (e.g. Singer 1979, 72-78). Alternatively, if some specific characteristics of humanness is at stake, most commonly cognitive or moral capacities, then this opens up questions regarding children or the cognitively impaired (see discussion in Wasserman et al. 2017).

rights in relation to discussion of human capabilities; indeed, even privileging them. We must pause to clarify what is meant by capabilities, so that the contrast between them will be plain.

At the root of the capabilities approach is the basic idea of the good life. Its foundation is found in Aristotle. In an influential paper, delivered in 1988, Nussbaum proposed that the 'aim of political planning is the distribution to the city's individual people of the conditions in which a good life can be chosen and lived' and that this 'task aims at producing capabilities' (Nussbaum 1988, 1). This model, she states, recalls Aristotle, who wrote in the *Politics* that 'the best constitution must be one which is so ordered that any person whatsoever may prosper best and live blessedly' (1324a23-25[161]). Nussbaum translates it slightly different, replacing 'blessedly' with 'a flourishing life' (Nussbaum 1988, 2). A little later Aristotle puts it 'it is the task of a sound legislator to survey the state, the clan, and every other association and to see how they can be brought to share in the good life and in whatever degree of happiness is possible for them' (1325a7). The responsible state ought to operate in such a way that it will most promote and enable arrangements that allow each individual to flourish. To sum up, the person who possesses both capabilities and the opportunity to fulfil them is the person likely to flourish, so the 'best constitution' is the one that is set up in such a way that is effective at 'producing capabilities'.

To define capabilities, Nussbaum initially offers the answer of what a person is 'able to do and to be', before saying that they are a 'kind of freedom', such as the 'totality of opportunities she has for choice and action in her specific political, social and economic situation' (Nussbaum 2011, 20f.)[162]. In this Nussbaum places a high value on the person's possession of practical reason, in

[161] All references to Aristotle's *Politics* drawn from Ackrill 1987, unless stated

[162] A distinction needs to be drawn between having a capability to a certain thing and actually functioning in that fashion. To function at *x* is different to having the capability to choose or do *x*. The state need not necessitate good functioning, but only to create a context in which people can function, if they choose. If the goal was to produce functioning, then this might preclude people's choices. For example, in respect to physical health, two people might be hungry, one from want and the other by choice according to religious asceticism. If we were to fulfil the 'function' for these two, we would be over-riding the latter's choice to go hungry (Nussbaum 2001, 225).

that the person may choose for themselves whether to fulfil those capabilities (*ibid.,* 226; 2011, 25).

But even here we must clarify. Nussbaum sees that a person has different sets of capabilities. At root, a person has 'basic' capabilities – the typical 'innate equipment of individuals that is the necessary basis for developing the more advanced capabilities'. These are present from birth (or before) or an early age and will, in most cases, need to be nurtured and developed – including things like rationality, imagination. Without these basic capabilities, there will be no scope for further. 'Internal' capabilities are 'states of the person herself that are, so far as the person herself is concerned, sufficient conditions for the requisite function'. For instance, a person has the internal capability for speech should she wish to exercise the function of speaking. Third, there are 'combined' capabilities, which Nussbaum defines as 'internal capabilities combined with suitable external conditions for the exercise of the function'. Nussbaum offers the example of a person in a repressive, non-democratic regime may be said to have the internal capabilities but not the combined capabilities to exercise her rights of expression and political participation. The external conditions for these are not present, even though she possesses all of the required states within herself to do so (Nussbaum 2001, 226).

So, to go some way to describe what a human life with basic human dignity would look like, Nussbaum offers a basic list, although she acknowledges that there is a degree of provisionality about it – it is an ongoing project, open to being 'contested and remade' (*ibid.,* 223). The list has been repeated in several texts, more or less verbatim. The list includes life, bodily health, bodily integrity, senses, imagination and thought, emotions, practical reason, affiliation (in the sense of being able to live with others and obtaining respect from others), other species (being able to

show concern), play and control over one's environment (both in terms of political participation and in respect to owning and producing things (2011, 33-35)[163].

[163] Those capabilities in full:

Life. Being able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living.

Bodily Health. Being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter.

Bodily Integrity. Being able to move freely from place to place; to be secure against violent assault, including sexual assault and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.

Senses, Imagination, and Thought. Being able to use the senses, to imagine, think, and reason – and to do these things in a ''truly human'' way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing works and events of one's own choice, religious, literary, musical, and so forth. Being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to have pleasurable experiences and to avoid nonbeneficial pain.

Emotions. Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one's emotional development blighted by fear and anxiety. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)

Practical Reason. Being able to form a conception of the good and to engage in critical reflection about the planning of one's life. (This entails protection for the liberty of conscience and religious observance.)

Affiliation.

A. Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech.)

B. Having the social bases of self-respect and nonhumiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails provisions of non-discrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, national origin.

Other Species. Being able to live with concern for and in relation to animals, plants, and the world of nature.

Play. Being able to laugh, to play, to enjoy recreational activities.

In sum, the list, as presented, ought to be seen as a 'threshold'[164]. As a component of a theory of social justice, the capabilities do not count as exhausting it, but rather offering a minimum that needs to be met – 'justice may well require more' (*ibid.,* 39). That said, Nussbaum recognises that even this presents difficulties, especially in regards equality. Some components ought to be equal – education, for instance. It would be unjust if educational opportunities varied from person to person, community to community. But others – the material components – for instance, offer more scope for variation. It does not seem to be necessary that everyone has the same degree or mode of shelter. However, between nations things become more difficult. To suggest that equality between nations is not required seems unjust to poorer nations, who would have a lower minimum due to the 'luck' of having fewer resources. On the other hand, to insist on equality between nations would likely require some redistribution of resources between nations, compromising a nation's ability to choose how it engages on the international sphere (*ibid.,* 40-42).

One important consideration that is worth making plain is that thinking of rights in terms of capabilities, or just thinking of capabilities requires of us that we think beyond the life of the individual. Capabilities, in a way that is not demanded by rights discourse, rely upon there being

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Control Over One's Environment.

A. Political. Being able to participate effectively in political choices that govern one's life; having the right of political participation, protections of free speech and association.

B. Material. Being able to hold property (both land and movable goods), and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. In work, being able to work as a human being, exercising practical reason, and entering into meaningful relationships of mutual recognition with other workers.

[164] There are a few things worth noting about the list. It is focused on individuals and only indirectly towards groups, which draws it into contrast with some societies that have consider the family or some other grouping as the basic unit. The capabilities are not interchangeable in the sense that if one could not be assured for some reason, it could be swapped for some other. Nussbaum says all are distinctive, need to be secured individually. But this is not to exclude the possibility of what she calls a 'tragic choice'. She offers the example of a family that may need to keep a child from education in order to work to feed the family – either choice involves doing some harm. Although she adds that the presence of such situations ought to prompt careful consideration and a search for solutions (Nussbaum 2011, 37-38).

a communal dimension to life and for that dimension to fulfil many of those capabilities. For a person to have the opportunity to fully realise their capabilities they require that there are people who can educate, employ, play alongside, be friendly with and so on (Nussbaum 2001, 228ff.).

To return to our questions – what is the relationship between capabilities and human rights, what does attention to capabilities offer that cannot be gained from human rights directly, and why is Nussbaum inclined to privilege them?

Nussbaum offers a series of reasons why, in addition to rights, we should consider capabilities. First, she notes that capabilities give a clear sense of what is needed to secure rights rather than simply codifying them. She notes the example of sex equality in India, where there are all sorts of guarantees written into the constitution, but that, on the ground, these were mostly unrealised. The right is there, but the capability is not – without the capability the right is just words on a page (Nussbaum 2001, 229).

Secondly, she suggests that capabilities clarify what is entailed in the discussion of rights. Using the examples of certain welfare rights, she suggests that these might be understood in a variety of ways – purely economic or in terms of utility or capabilities. If we think of rights in terms in either of the former two senses, it draws a clearly different picture than in the third. We might be proposing that we have the right to a certain of resources, or to a certain degree of satisfaction, but we might also say that to have the right is to say that we have the certain capability or set of capabilities. Thinking of rights this way also offers some rationale and defence for uneven distribution of resources, as they are spread around with the pursuit of ensuring capabilities – some individuals may require more or less resources to assure that point (*ibid.,* 230f.)[165].

[165] First, Nussbaum suggests that some rights might be seen as fundamentally similar to what she's called 'combined capabilities'. Freedom of expression, for instance, or the right to political participation could be seen as resting on the person's internal capability to exert control over their environment

Vizard et al. (2011) add that capabilities offer the opportunity to resolve debates regarding human rights – especially those rights addressing economic and welfare rights. They provide a clearer understanding of the ethical demands of human rights, especially of what they ultimately entail. They reveal a value as 'a practical framework in which the substantive human rights position of individuals and groups can be evaluated and better understood'. As well as illuminating what is within a person's grasp, they help clarify the variables that impact this – for instance, contextual variables (Vizard et al. 2011, 4). For instance, in the example of a person with physical disabilities, we can see that issues of freedom of movement entail much more than simply the person's ability to move from A to B, but to what extent they are able to live a full life. In addition, where the conditions of her life demand to be challenged, the capability approach frames a justification for the means of that challenge to be made available, in terms of gaining representation and legal aids. (*ibid.,* 5)[166][167].

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through participation provided the external conditions necessary. However, a key difference is observed when the external conditions are not present and where we still want to say that the person has the right (Nussbaum 2001, 228-229).

[166] Similarly, Gilabert notes that the Capability Approach 'is a perspective with normative reasoning that recommends a primary focus on valuable capabilities when the quality of life of persons is characterised and compared (Gilabert 2013, 305). He proceeds to identify six features of the relationship between capabilities and human rights:

i. ***Actual realisations given diverse circumstances –*** the capabilities approach helps to explain and account for the concrete fulfilment of human rights. It goes beyond mere articulation and looks to say what needs to be the case in a person's life.
ii. ***Pluralism of grounds –*** it accounts for the plurality of interests that each person possesses. Of course, we are interested in life and health, but we are also interested in play and exerting control over our environment.
iii. ***Emphasis on Freedom of Choice –*** by the emphasis on the capability rather than the achievement of function places the emphasis of human rights on the individual's choice whether to act or not.
iv. ***Public reasoning –*** discussion and elaboration of human rights needs to be justified and scrutinised in an open, inclusive and informed mode of public deliberation.
v. ***Context-Sensitive Universalism –*** both discussions of capabilities and human rights are understood to apply to all but resist the danger of being too prescriptive in favour of allowing for variations of context.
vi. ***Broad View of Obligations –*** given the wide variety of contexts in which the duties and obligations generated by capabilities and human rights can occur, a broad view is taken allowing for them to exist in various different ways.

In sum, the core responsibility of development of individual's human capabilities and the defence of their human rights is to ensure that peoples' rights are protected and not violated, but also that individuals are given the space and opportunity to develop their own capabilities such that they can live a flourishing life. This entails giving people the freedom and facilities they need to make their own choices, develop their own interests and rationality, explore the world on their own terms, including how they engage with others and the world around them.

6.4. Summing up the analytic framework

Over the course of this chapter, we have examined the content of these core duties, and at the end of each we summed them up as:

- The core responsibility of supporting the place of democratic deliberation is, at the bottom line, to prepare and enable people to deliberate with one another as part of their democratic engagement.
- The core responsibility of promoting our need for epistemic trust amounts to promoting an environment where citizens are enabled to locate epistemically reliable information as they form, deliberate and justify their positions, and, in the scope of democracy, vote.
- The core responsibility of the recognition of difference is found in the need to respect and appreciate the role of diversity across UK society.
- The core responsibility of development of individual's human capabilities and the defence of their human rights is to ensure that peoples' rights are protected and not violated, but also that individuals are given the space and opportunity to develop their own capabilities such that they can live a flourishing life.

I hold that if the BBC is to deploy recommender systems responsibly, then they must promote these four core responsibilities.

As we noted at the outset of this chapter, the analytic framework is a tool, a measure with which to assess and evaluate how the BBC may deploy recommender systems responsibly. We defined 'responsibility' according to its role responsibilities as a public service broadcaster and its legal responsibilities drawn from relevant laws and regulations, which we have gathered and distilled to a short list of four core responsibilities. The fundamental task of the framework is to be able to answer that question. We will hold up these core responsibilities against the deployment of recommenders to identify what it would look like for the BBC to deploy recommender systems responsibly.

These four core responsibilities can be viewed independently – we could concentrate simply on how some implementation of technology facilitates and supports the development and reinforcement of epistemic trust between citizens, for example – and focus purely on that point. But, just as much, as we have noted, there is some significant overlap and mutual reinforcement. We can see these as working together, working in combination to add depth and complexity to the picture. For instance, to take a straightforward example, epistemic trust can be seen as directly supporting democratic deliberation. Alternatively, we could observe that there is much to be gained from observing that the opportunity to deliberate is an important dimension in a person's development of their capabilities, especially to the extent that an individual is able to control and influence their environment.

However, we have noted that conflicts are liable to occur between the core responsibilities. They may not operate in sync, such that agreement is necessary; they are distinct, separate ways of assessing the responsibilities of the BBC, drilling down into their own spheres of obligations.

There are two ways that we could respond to this potential problem. The first is by proposing a hierarchy – to suggest that some core duties simply carry more weight than others and that in the case of a conflict between them, we simply favour the more foundational. There is some value to this approach, after all, we have at one end liberal democracy and the rule of law, democratic deliberation at the other. Few would argue that the rule of law is of greater constitutional importance than deliberation – we could rank these core responsibilities against their constitutional gravity, and in the case of a conflict, favour the one with the more gravity[168]. However, this solution fails to recognise the complexity of potential situations and the nature of role responsibilities which are not so interchangeable. For instance, I have responsibilities as a father and as a student and sometimes they conflict. We might say that in a specific context one has greater gravity than the other, but it is simply not the case that the other disappears or becomes disposable. As an example, we might say, on account of social cohesion within the context of the first core duty, recommender systems ought to surface and prioritise content that reflects some significant national moment – for instance, the passing of the later Queen Elizabeth II. However, we want to recognise different community voices, on account of the recognition of difference and argue that we should be able to opt out of such recommendations. Some communities may be critical of the monarchy or concerned about its historical involvement with colonialism, and not want to have their recommendations filled with content related to the monarch. Both core duties are important in their own way and defensible, but all

[168] To illustrate a potential hierarchy in very simple terms, what good is deliberation if we have no public epistemological grounding of supposed facts? What good are factual claims, if we deny access to different points of view and different groups that would help corroborate and contextualise those facts? What good is access to different groups, if we are neglect the human rights that would allow groups to gather, share and reflect on the information they need? What good are human rights without an adequate rule of law that would enable those rights to be defended?

things being equal[169], they stand at odds with one another. So even if we were to favour one, we must continue to recognise the value of other duties.

The likelihood is strongly that such antagonisms between core duties are very unlikely to occur, and typically, when they do, turning to a hierarchy where core duties with greater constitutional gravity will be capable of resolving the impasse. However, I firmly recommend, even in simple cases, that the specific contextual circumstances of the conflict are taken into account, and the balance is dictated by reference to the needs of liberal democracy.

In chapter eight, we will turn to applying this framework and look to describe how these core responsibilities may be cashed out in terms of the operationalising of the BBC's recommender systems. But before we do, in chapter seven, we must return to the BBC, in order to describe and examine the BBC's actual deployment of recommenders as it stands currently. Without a thorough, detailed understanding of the BBC's operations regarding its delivery of personalised content, our application of the analytic framework will remain abstract. It must also be concrete and grounded in actual practice.

[169] As matters stand, this scenario remains hypothetical, headline news of this sort falls very much under editorial control, and there is no means for a person to opt out of any content. There are sensible reasons why that might not be desirable – bringing on a slightly different conflict between core duties.

7. The BBC and recommender systems

In chapter six, we reached the conclusion of our argument and the analytic framework, a tool intended to clarify the answer to our research question of how the BBC can deliver personalised media content recommendations responsibly. Further, we can apply it to the BBC's actual operations in order to form an assessment and evaluation of how responsible it is being in its deployment of recommenders. In this chapter, then, we turn to the BBC and how it has set about developing and utilising this technology.

This chapter has this one primary purpose, to outline the BBCs present position regarding personalisation. In meeting this purpose, the chapter is broken into five sections. In the first of these I account for the methodological choices I undertook to ensure that I was able to gather the information I needed. It was important that I was able to give a clear account of how the BBC had deployed recommender systems, including noting their development and their principal features. In addition, I needed to be able to reveal something of how the BBC sought to reflect upon this technology – how seriously it took the dangers and issues represented, but also what measures untaken to reduce the potential risks. As I note, the modes of research pursued generally throughout this study would have limited effectiveness in addressing these questions.

In the second section, I offer a brief overview of the three platforms that we will concentrate upon; iPlayer, Sounds and News, including a justification of why these three platforms. In the third, I withdraw from the specifics of these platforms to uncover the processes and workings of the recommenders as deployed by the BBC. I will go into more detail into the processes that the BBC have gone through to develop recommender systems as well as how they generate recommendations across the three platforms.

The fourth section turns from the technical details to return to the thinking the BBC has undertaken in regards recommender systems and the risks they pose. It is no surprise that the BBC, with a body of staff highly qualified and professional, has already paid attention to the concerns that have been raised about recommenders and the tensions that they pose to the public service commitments at the heart of the Charter. In this section I will briskly highlight and add detail to three approaches regularly cited as vital in the BBC's own writing on these concerns – their Machine Learning Engine Principles (MLEP), the Human Values approach, and Business Rules.

In the fifth section, I reflect once again on the tension between the BBC's statements regarding personalisation, both in the abstract and specifically as they deploy the platforms we have considered. I detect a Janus-like uncertainty and a hesitancy to properly grasp the nettle, and in this section I note and describe these 'two faces' and consider the challenge before the BBC and other public service broadcasters. On the one hand, the BBC is playing for an increased place in the media landscape and sees returning, frequent users as an indicator of relevancy and of meeting people's needs. They argue, plausibly, that in doing so they are fulfilling their public service objectives. On the other hand, this strategy blurs the line between treating the user as consumer or a citizen. Giving the user what she wants, in the format and manner she wants it, tilts towards seeing her as an individual and neglecting her role as part of the broader societal and political dimensions of collective life. More bluntly, it risks neglecting our collective values altogether. Following this analysis, I will apply the analytic framework to the BBC's operations with a view to assessing and offering an answer to whether or not, according to that framework, the BBC's deployment retrospectively can be described as responsible.

7.1. An account of methodology

The bulk of my research for the study was conducted by examining traditional academic sources. This was augmented by a wealth of grey literature[170], largely drawing on reports and documents produced by the BBC as well content drawn from government and Ofcom, the regulator responsible for broadcasting in the UK, amongst others. Academic sources, pulled primarily from legal, philosophical, data science and media theory scholarship, especially as to how they respond to the impact recommender systems may have on public service broadcasting, have provided a solid ground for gaining an understanding the issues at the heart of my research question. Furthermore, they have been vital in its analysis, forming the mainstay of the development of my analytic framework, and as such necessary in framing how to think about what is positively demanded by the question of how the BBC may deploy recommenders responsibly. At the same time, grey literature has been invaluable in my examination of the BBC, both in terms of examining the responsibilities it possesses, but also in gaining insight as to how the BBC has developed its thought regarding personalisation in general and the deployment of recommender systems in particular.

However, the analysis drawn from these sources has only taken me so far. In two respects I found it to be lacking the detail and precision that the study demanded. First, in the grey literature published, there is typically a limit in the amount of detail as to how the BBC has conducted the journey towards personalisation[171], especially in how the BBC has endeavoured to produce recommendations within their primary platforms that were operating in concert, and

[170] Rucinski reports that there has been a great deal of debate regarding what is meant by 'grey literature' (Rucinski 2015). A definition often considered authoritative is that offered by the Third International Conference on Grey Literature held in Luxembourg (1997), expanded by the Sixth International Convention in New York (2004). This holds that '[grey literature is] that which is produced on all levels of government, academics, business and industry in print and electronic formats, but which is not controlled by commercial publishers, i.e., where publishing is not the primary activity of the producing body' (quoted in Rucinski 2015, 550).

[171] Annex 1 offers a longer, more detailed account of how the BBC took the road to personalisation.

not in competition, with its public service priorities. This has extended to the specific development of the recommenders themselves, but also in how the BBC has acted to ameliorate and modify those recommendations. It is not that the grey literature has failed to provide a picture at all, but simply that the picture lacks the granularity needed to give an adequate account of my research question. Second, while there is a steady flow of literature and information stemming from the BBC in the form of reports, blog posts, online lectures and so on, there is always a delay in its publication. On the other hand, the pace of development in respect to these recommenders is persistent and rapid. To rely upon the grey literature produced by the BBC would be to fail to be sufficiently current.

As such it was clear that I would need to conduct qualitative research, speaking directly to BBC employees to gain greater insight into the corporation's thinking, development and deployment of recommender systems on its primary three online platforms (iPlayer, Sounds and BBC News – see section 7.2.)[172]. These conversations and communications provided the opportunity to gain insights into the priorities and preoccupations of the BBC to a level that would be liable not to be reflected, even in the grey literature. On account of the partnership with the BBC, and the support of Laura Ellis, Head of Technology Forecasting, also my connection and support there, I was directed towards people that would be able to help me either by answering questions that arose or by pointing me towards people that could.

In the course of my study, I utilised two methods of qualitative active research: semi-structured interviews and written questionnaires. In the interviews I employed a series of open questions

[172] This primary research has been either an interview (semi-structured) or some form of written correspondence (primarily an email, questionnaire, or internal document that has been shared with me). To ensure adequate anonymity, I will not refer to the interviewees by name and so to clarify where I have drawn information from this primary research, I have referred to it in the text as either correspondence (meaning an email or questionnaire, etc.), or interview (whether conducted face-to-face or remotely), marked by a 'C' or an 'I'. To differentiate one source from another, I have marked these with a number – C^1, C^2, I^1, I^2 and so on. Research was conducted under the terms of the Humanities and Social Science Ethical Review Committee at the University of Birmingham. All interviews were carried out under the conditions of that approval. The Ethics Review Number is ERN_20-1448. On account of these terms, all interview recordings and transcripts are held on University of Birmingham servers.

intended to direct attention to key issues that I believed were important, but that were open in that it allowed the respondent room to develop their answer as they willed, with the opportunity for me to ask new, unanticipated questions on matters that had not appeared to me as relevant beforehand. Examples of questions asked in one interview (I^7) include:

- What is the current situation with automated news content at the BBC?
- What challenges or dangers do you foresee being a risk for this technology?

In each case, there was a great deal of scope for the respondent to answer in different ways. Specifically, I felt that there were benefits in allowing this freedom as the answers would have greater opportunity to reflect the aspects of the question that seemed important to the respondent, their priorities and preoccupations. In turn, they allowed the potential for follow up questions.

The questionnaires, on the other hand, were far less open and more guided. As will be noted in more detail below, there were two reasons for this. One was that I was looking for very specific information, and so was less interested, in this instance, in the respondents' own priorities and preoccupations. Second was that I was concerned that the questionnaires were long and ran the risk, correctly as it turned out, of appearing onerous. I was keen to allow respondents to say what was needed and move on to the next question. Examples of questions here (related to BBC Sounds):

- How would you define novelty, diversity or serendipity?
- Is it obvious to the user which content is curated by a human and which is generated by machine (*a number of methods of machine generation were offered by way of definition*)?

Again, the questions were intended to elicit specific information in clear, hopefully certain terms. They did not leave space for diversions – especially since, as a questionnaire, there was no opportunity to capitalise upon them.

Over the whole course of the study, I conducted 11 interviews with BBC members of staff[173] and distributed two questionnaires. Early in the study, I conducted two interviews with a senior member of one of the data science teams that had been responsible for the initial development of recommenders for BBC platforms. From my study of academic literature, I had begun to develop an understanding of what recommender systems were, how they operated, and how they were 'fuelled' by machine learning technology, but I needed to place this in the context of the BBC – to start to sketch out a view of how the BBC actually deployed them – what sort of models were favoured, what sort of data was used and from where was it sourced. What also emerged from these interviews was an initial sense of how the data science teams viewed the challenges that faced the development of recommender systems within the context of the BBC as the nation's primary public service broadcaster. It was plain that these teams were not unaware of the challenges or the issues they faced – the interviewee was keen to underline the role that Machine Learning Engine Principles played (see section 7.4.1.). However, while these two interviews surfaced some very helpful information, at this point my own understanding was still very immature. Consequently, the questions I asked failed to draw the information needed. Further interviews would be needed.

The Covid pandemic[174] brought this first phase of research to a close and the prospect of conducting further research at this point effectively shut down. From a research point of view,

[173] On account of the University ethics guidelines and the agreements that were made with the BBC, the interviews were conducted on the basis of anonymity, under Chatham House Rules – such that respondents are free to say what they want on the understanding that they would not be identified.
[174] On a personal note, this was compounded by the passing of my mother late in 2019.

my focus shifted to issues and questions that were available by purely desk-based research[175]. It was only when the issues of the pandemic did eventually subside and the possibility of speaking to BBC staff once again became available. Laura Ellis lined me up with two interviews – both colleagues that worked in product teams with experience of working with data science teams and with editorial teams, which is to say that they had had experience of working alongside journalists. As such both understood the line that needed to be walked in the development of recommenders between making recommendations that would enable BBC users to maximise their interests, but that also reflected and promoted public service ideals. Again, I conducted semi-structured interviews. However, while both respondents' answers were very helpful and insightful, especially in accounting for the BBC's caution in its deployment of recommenders, they lacked precision in regards the mechanics of the systems.

To respond to this need, I drew up a list of questions that needed answers, shaping up a questionnaire that would focus on the exact information required about the workings of the recommender systems themselves. On account of the three platforms that were most pertinent to the study, I produced three questionnaires, almost identical but that were tailored to the specifics of each[176]. In addition, I drew up an additional questionnaire orientated around the concerns raised in the literature. Each of these were sent to people, identified by Laura Ellis, who were key members of the teams responsible for iPlayer, Sounds and BBC News. However, after long delay, only three were returned[177] – two that related to the platforms, and one that addressed the concerns. Two that came in had limited information, but the other was thorough and detailed and offered an effective basis with which to consider how to proceed. The

[175] The complications of covid meant that even when the lockdowns began to lift, people at the BBC were unable to make themselves available even remotely. The reports that I received were that there was much that needed to be caught up with. Again, I responded to these conditions by focusing on questions that were answerable without the input of the BBC.

[176] I have included these four questionnaires in the annexes at the end of the study.

[177] The reason that so few questionnaires were returned was reported to be that the questionnaires were too in-depth and looked onerous and time consuming.

respondent had given clear insight into the configurations of recommenders used by the BBC, the ways that data was collected and used, what sorts of 'goods' the recommenders were optimised for, how user experiences were conceived in the development of recommendations and how these were presented to the user – information necessary to assess whether the BBC was deploying recommenders in a way we could consider responsible. At the same time, there was an account of how the platform was thought of vis-à-vis the BBC's public service duties.

Despite the low number of responses, there was enough information in these questionnaires to build a more detailed picture of how the BBC both developed and thought of their deployment of recommenders. However, this information was specific to one platform, and it was important that similarly reliable insights could be established regarding the other platforms. Consequently, Laura Ellis and I set to arrange a third set of interviews. Most respondents were proposed by Laura, according to their role on the remaining platforms. Two further interviewees were selected; one on account of their being identified by previous respondents and another that had emerged from my investigations of BBC of blogs and literature.

The final raft of interviews, conducted in the final nine months of the study[178], built on research conducted throughout the study. As such, I had greater clarity regarding the questions that needed to be asked and these interviews were the most fruitful in terms of giving the clearest view of how the BBC were deploying recommender systems and the concerns that animated the BBC in respect to their various priorities.

[178] This was advantageous. One of the concerns that I had orientated around the fast-moving pace of change of these platforms. During the course of my research, the BBCs primary platforms had undergone significant developments. At the outset of my studies, there were no algorithmically generated recommendations on the BBC News website whatsoever, and the iPlayer offering was significantly smaller and more time limited. (iPlayer underwent significant growth in its offering in 2019 once it was given permission to hold content on the platform for a much longer period, converting it from a straightforward catch-up service to a platform more in competition with other streaming platforms such as Netflix (BBC 2019a, Ofcom 2019)). Even in the final six months, there were ongoing developments to the design and user experience. To have delayed the final phase of active research to this window ensured that the study was reliably up to date at the time of submission.

As we will note in section 7.5., the interviews revealed that the BBC remained conflicted in certain respects. On the one hand, the BBC is committed to the public service principles embedded in its Mission and in the Public Purposes, and every interview alluded to them and revealed an indebtedness to that fact that these were at the heart of what the BBC is and does. On the other, the BBC in its commitments needs to ensure that maximises reach and appeal, so as to engage as many users as possible and retain their interest. These two commitments overlap and blend into one another, but at the same time reveal the underlying tension of the BBC to think of users both as citizens and consumers.

This active research orientated around two distinct facets of the study, both integral. The first was to understand the nuts and bolts of how the BBC deploys recommender systems. In this sense these interviews were, in essence, fact-finding enterprises. Quite simply, there were facts that I needed to find out, and the interviews and questionnaires were analysed with a view to constructing as accurate and as contemporary a picture as possible. From this point of view, it was expressly beneficial that most of the interviews were conducted in the last nine months of the study. My understanding of the workings of recommenders and the issues involved was at its most mature, so I was well placed to extract information with these needs in mind.

The second facet was less straightforward. Here I needed to listen more carefully, to read between the lines, and to correlate more deeply between the interviews and my desk-based research. I needed to discern the underlying commitments to thinking about how the recommenders were to be deployed. At the heart of this study as a whole is to consider how the BBC is to develop and utilise recommender systems in a way that we could call it responsible, and much of our journey has been to develop an understanding of what that might mean, in respect to the legal and regulatory responsibilities that the BBC faces, but also in respect to the role that the BBC plays in UK society as the primary public service broadcaster. We will draw a conclusion as to whether and how much we would want to describe the BBC as responsible in

Chapter 8, but the evidence we will point to is largely found in this chapter and is drawn from these interviews. The interviews needed to be analysed thematically, to identify the themes that emerged and to pick up on them, to pursue them a little, and to reflect on whether the actions that accompanied the concerns and the needs of what it would mean to deploy recommenders responsibly corresponded with the actions that the BBC took.

7.2. Three BBC Platforms

We have commented on the processes that led to the development of the BBC's intentions to personalise its media content distribution. In this section I want to concentrate on this area in some detail, engaging with the question: what does the BBC actually do? So, not what it thinks, or how did it get here, or what sort of judgements do the BBC make regarding the role of recommender systems in their services – simply, how, as matters currently stand, is the BBC making use of recommender systems in its primary areas of digital media content distribution?

In this, we are directing our attention on three arenas: iPlayer, Sounds and BBC News. iPlayer and Sounds are both single, standalone platforms that provide general BBC content. While they may be accessed through a wide variety of means: the web, mobile phones, games consoles, etc., they will look and operate more or less the same. BBC News is different - it straddles different platforms and modes of delivery. There is a BBC News app for mobile devices, or access via the BBC News website, for instance, and the user experience will be different in different cases. BBC News is also different in that it is still in relatively early stages when it comes to personalisation. As we will outline, there are developments, but most of what we would encounter here is still editorially curated, meaning that the content is the same for everyone and is the result of human, not automated, decision-making. A hybrid method, employed across the three platforms, is a personalised sort. Here, an editor or team of editors

compile a list of content or categories of content. This will be the same for all BBC users. However, an algorithmic sorting process will be employed to rank the content of the list, such that the order will be personalised – everyone sees the same list, but in an order personalised to the individual. One interviewee (I^9) described this as the 'best of both worlds'.

I have chosen these three to concentrate on for straightforward reasons. iPlayer and Sounds are major flagship digital offerings of the BBC – they are regarded as digital priority products (NAO 2022, 15)[179]. Both iPlayer and Sounds are resolutely generalist, covering the full breadth of BBC content in their respective fields. On both, there is content for all audiences, of all genres – in short, if it has been broadcast on BBC television or radio, it is likely to be, or have been, carried on these platforms. While BBC News is as equally well known, it is again different. The focus is the news. While you might find clips of content, much of which had previously been produced for television or radio, the bulk of it is text based. In this regard, it has more in common with print-based news content than broadcast. The first reason for selecting these three for attention, then, is that they are all major routes of engagement with BBC content.

The second reason is that all three prominently include news and current affairs content. News and current affairs are a vital dimension of content for the cultural and political life of the United Kingdom community. They correspond most accurately and resonantly with the public purposes of the Charter. Entertainment content produced by the BBC is also of great importance – it accords with one of three-part Reithian Mission of the BBC and does much to meet the needs of the Public Purposes and should not be under-estimated as to its value to the cultural life of the UK, but news and current affairs meets the core mission of the BBC more squarely. No one would doubt that there are episodes of Eastenders, as an example, that speak to the collective life of the nation, but for news and current affairs, this is their core value. iPlayer, Sounds and

[179] Along with BBC Sport. I chose to omit Sport from the study, since it was neither properly generalist nor carries news and current affairs content as a major part of its offering.

BBC News all include news and current affairs content as significant components of their offering – that is why I have chosen them as my focus.

7.2.1. iPlayer

At heart, the purpose of the iPlayer is to allow people to watch the BBC's audio-visual content. While it was originally seen as a catch-up service, it has developed into a stand-alone streaming service, comparable to other services, but devoted to content made by the BBC or licensed to the BBC (For instance, the BBC carries movies that are Hollywood productions but have been licensed to be shown on BBC television services and, consequently, iPlayer[180]) (BBC 2019; OFCOM 2019). In contrast to other services, however, iPlayer is not solely a method of digital content distribution like Netflix, but it also claims to balance 'the BBC's editorial values and priorities with personal relevance' (C^2). In this sense, it could be described as a public service recommender. It only recommends BBC content, which is produced under the BBC's public service aegis and is intended to accord with the BBC's wider public purposes. It combines automated decision-making techniques via recommender systems with editorial curation – again conducted with the BBC's public service principles in mind (C^2). Furthermore, this human involvement ensures that the selection a user sees will be informed by content relevant to the BBC's priorities – for instance, content related to major cultural events, such as the death of Queen Elizabeth II, of significant political import, such as the Panorama coverage of the Downfall of Boris Johnson, or shows that are aimed at key demographics, such as Conversations With Friends, aimed at the 18-35 target group (C^2). Finally, alongside more typical recommender priorities, such as increasing levels of engagement, the automated recommendations generated within iPlayer seek to deliver breadth, ensure that content is age-appropriate and is up-to-date (specifically for news and current affairs) (C^2).

[180] For example, on the iPlayer at the time of writing, you could watch Marvel Studio's Spiderman: Homecoming (produced by Disney) or Crazy Rich Asians (produced by a conglomerate of global production companies)

The iPlayer utilises a range of recommender engines. The primary model employed is content based, drawn from content metadata, predominantly genre. It also makes use of hybrid methods, combining content-based approaches with collaborative filtering, as well as combining automated and human processes, where recommenders provide automated sorts of editorial curations. In order to generate recommendations, the variables employed aside from genre, are primarily those concerned with user data: watch-history, behaviour, etc. When we consider what output variable the recommenders are being optimised for, at the training phase, a variety of metrics are used[181] to determine the performance of algorithms. These give a view on how effective the content predictions are at meeting users' interests. Once online, recommenders are tested with multivariate or A/B testing, these are measured against 'click through rates' and 'play completes' and are judged according to various demographic groups (C^2).

In terms of monitoring the degree that iPlayer promotes 'goods' such as novelty, diversity or serendipity, the only one that is measured directly is diversity. Diversity is understood by the BBC to suggest the 'breadth or variety in some defining aspect of the content being recommended', for instance genre, and is measured by examining the average numbers of distinct genres included per recommendation list, or by examining 'aspects of content contributor demographic diversity in recommendations served' (C^2). Novelty and serendipity are not measured directly at present, although 'popularity debiasing techniques' have been used with a view of promoting novelty (C^2). One major way that the BBC has sought to ensure that recommendations are geared towards promoting public service principles is through the deployment of 'business rules'. We will comment more on these below, but they can be understood as a 'logic applied post-prediction' – so following the recommendation generating

[181] Examples include MAP and NDCG. MAP stands for 'maximum a posteriori' and is used to estimate the parameters of a statistical model – what sort of range of expectations should we anticipate? NDCG stands for Normatised Discounted Cumulative Gain and is a measure for ranking the quality or relevance of items.

process and is more directed towards the promotion of novelty and demoting content that runs the risk of violating those principles ($I^{3/4}$).

iPlayer, like all systems that generate recommendations, collects a significant amount of data (C^2). To use iPlayer a user is required to log-in using a BBC account. Signing up for a BBC account does demand certain information from the user (name, age, postcode, email), although only age is used to recommend content, and that in a very limited fashion: to ensure that no age inappropriate content is shown. This log-in data is stored as a unique identifier and is added to by impressions data, clicks data, plays data and subscription data (C^2). Of these, however, only plays data, along with content metadata, are actually used to generate recommendations. The remainder of data collected are used to provide guidance to the end of improving user experience – 'allowing users to pick up where they left off watching, saving subscribed shows and alerts when new episodes are available'. A user is able to continue to use iPlayer without personalisation, leading to no recommendations being generated by the platform. In effect, it will lead to the user experiencing a 'cold start' with every new use[182].

Assuming that the user is over 16, the experience of iPlayer will remain broadly consistent from user to user. Factors that might otherwise change the way that it is presented to the user might be if they had used iPlayer previously, and so the system has begun to accrue data on that person's use and behaviour. A new user, for instance, would not be presented with the 'continue watching' or 'if you liked' rails[183].

[182] The option to remove personalisation is found in the Settings function in a persons Account on the bbc.co.uk. page.
[183] A 'rail' refers to a (horizontal) row of content presented that follows a theme or have a common characteristic.

Figure 6.2.1. – An iPlayer Rail

The majority of rails are chosen by BBC editorial staff and so are not automated at all. The two rails '*Continue Watching*' and '*Your Added Programmes*' are both automated in that they are generated purely on the basis of user behaviour and involve no editorial intervention, but neither are generated by recommenders. The 'only rail that presents entirely algorithmically generated recommendations from the wider iPlayer content is '*Recommended For You'* (C^2)'.

The ratio between human curated content on iPlayer and machine or algorithmically generated content is approximately 70:30 – Human to machine/algorithm (C^2). Algorithmically generated recommendations are not explicitly presented to the user as such – there is a presumption that users are comfortably aware that content recommended in this way are generated this way. By the same token, users are not explicitly informed where the content presented is editorially curated. While a user can remove algorithmically generated content by denying the system the option of collecting data in the privacy settings, there is no option for prioritising algorithmically generated content. No detailed explanation of recommendations is offered individuals, but a more developed account is offered in the FAQ accessible through the users account details[184].

7.2.2. BBC Sounds

[184] BBC iPlayer, like all BBC products, is under-going continual change and development. In late 2022, the BBC conducted a second public interest test in respect to iPlayer (following one conducted in 2019). It represents no significant expansion of personalisation on the platform, but a wider content provision – so, theoretically, a greater range of content that could be recommended (BBC 2022)

BBC Sounds is, in many respects, a similar proposition to iPlayer and much that we have said in the previous section carries over and applies more or less equally here. Consequently, it will be briefer. BBC Sounds is a streaming and download service dedicated 'to BBC Radio stations, programmes, podcasts, music and a whole bunch of other lovely stuff online'[185]. A listener can tune in to the full range of local and national BBC radio stations and it contains over 80,000 hours of further BBC audio content, which includes old radio broadcasts, as well as new content, produced directly for BBC Sounds.

There are some notable differences to Sounds. The first is that, even though it grew out of the iRadio catch-up service, it was quickly conceived as a personalised service. James Purnell, the former Director of Radio and Education at the BBC, declared in 2019 that the BBC Sounds App 'is built for personalisation, but is not yet fully personalised'. The intention was that it will be 'highly personalised'. He suggests that by improving the use of algorithms, by shaping them to surface not just 'more of the same… to surprise you, to direct your attention to new information, to different points of view' it will develop into a public service algorithm (Purnell 2019).

A further difference between iPlayer and Sounds is seen in the way that responds to the challenge of users from different age groups. Whereas iPlayer maintains a 'walled garden' approach, where, when a child logs on, all content in ensured to be child-friendly and child-focused, Sounds does not employ this strategy. Instead, different 'networks' govern their own territory – so Radio 4 will have its own editorial priorities, which will be more adult focused; Radio 1 will have its priorities and will be more family orientated. Listener guidance will be issued, but again, it is up to the network how this is managed. That said, while there are specific areas that do cater for children, the CBeebies radio station, for instance, or Mr. Tumble's Radio Show, the presumption is strongly that Sounds is an adult product(I[8])[186].

[185] 'What is Sounds', https://www.bbc.co.uk/contact/questions/help-using-bbc-services/what-is-sounds
[186] I[8] describes it in more detail:

That said, BBC Sounds is a public service recommender in a similar way to iPlayer, in that it only carries 'content that was made, commissioned or acquired by the BBC to meet a public service agenda' (I^{8}). Like iPlayer, it is overseen by editorial and it seeks to ensure that the recommender reflects the public service principles found in the BBC's Mission and Public Purposes. Like iPlayer and News, it is governed by reference to 'business rules'. Purnell spoke of Sounds' capacity for serendipity, its potential for surfacing material that the listener never knew they wanted (*ibid.*). At the same time, however, the recommender is optimised for increased engagement. In its recent report, the Ada Lovelace Institute quotes David Jones, former Executive Product Manager for BBC Sounds, as identifying the goals for the platform as to increase audience size, demographic breadth – especially among the under 35's, convert 'lighter users' to regular, and to enable users to discover content more easily (Ada Lovelace Institute 2022, 112). In sum, like iPlayer, it both is and is not a public service recommender[187].

BBC Sounds was the first major BBC platform to deploy recommenders. Initially, third-party products were considered, but the BBC wanted greater ownership of the technology, to be able to adapt it itself, and so considered developing its own system, Xantus (C^{1})[188]. When it was recognised that better results were achieved, the BBC brought the development of its recommenders in-house[189] (I^{10}). Ultimately, like iPlayer, BBC Sounds deploys a hybrid of

"Whereas iPlayer has a walled garden and work out what is safe content for children, we don't have that, and each network has a different perception about what it is, and quite rightly, what is appropriate for their audience. Radio 4 audiences is absolutely aimed at an adult audience, without children really listening, whereas a Radio One audience has to be very family and youth focused, so they will have, and quite rightly, different editorial priorities around the sort of content they would produce. We do have guidance warnings in place but how they are administered varies between networks because the networks are thinking about their audiences. Tom can talk more about how that is set up in the product, but we don't necessarily curate specifically for children, we're not a children's product."

[187] See Section 7.4 for further discussion of this point.

[188] More development of these process and the processes that the BBC went through to produce its recommenders are in the following section, 7.2

[189] Benefits of bringing development work on recommender in house, included 'being in control of one's own destiny', having greater in-house capacity as well as understanding across the organisation, as well

content-based and collaborative filtering recommenders, ensuring that new content is easily surfaced for the listener (I^9). The data gathered by Sounds is again, similar to iPlayer. A log-in is required, using a BBC account. Without signing in, a person is not able to access any of the content – although, unlike iPlayer, on the web version (only), you are able to browse the content on Sounds. Data from user behaviour is gathered by Sounds – e.g. impressions, clicks, plays and subscriptions data is gathered. To generate recommendations, plays, subscriptions and bookmarks are used. Only on-demand content is used to generate recommendation, not streaming content. On-demand is viewed as a specific user-choice directed to a specific end, whereas live streams may cover varied types of content, and may be played for different reasons, including, for instance, background noise (I^9). Again, like iPlayer, a person can use Sounds without their data being collected, but each use will effectively count as a cold start.

The user experience is broadly similar to iPlayer. Aside from streaming the BBC's radio output, including local stations and international services, content is split into music and podcasts – the primary difference being that the latter is dominated by speech. There is a space for 'My Sounds' where bookmarks and subscribed content are gathered – subscribed content being content that a user has marked as having an interest in, new episodes will be included here.

The rails across the three zones of the platform – home, music and podcasts – offer a mixture of personalised and curated content (I^9). On 'New & Trending', the headline rail on the homepage, beneath live streaming and 'continue watching', the content is editorially curated, but, assuming the system has sufficient consumption data[190], the view will be personalised – meaning that the order the items are displayed in will reflect their listening habits. 'Music Mixes' is wholly personalised, unless there is insufficient consumption data, in which case, the user will see a 'cold start' rail, which will be editorially curated. Below that there will be a featured

as being able to offer greater degrees of transparency and accountability to users (Ada Lovelace Institute 2022), 40). Taboola (2021) reports that the BBC still uses external recommenders for some commercial, non-public service services.

[190] A minimum of four on-demand listens.

rail, which will be editorially curated – currently 'International Podcast Day', and below that 'Recommended for Your', which is wholly personalised recommendations. Finally on the homepage, there is a rail of local content – location data extracted from the user's postcode in their log-in – which is editorially curated.

The other zones, music and podcasts, are divided and presented along similar lines. Some rails will be curated solely by humans, others algorithmically. Some utilise a personalised sort. This is where a broader selection of content is gathered by editors, and then is sorted algorithmically, ranked, according to relevance to the listener, utilising collaborative filtering methods. One interviewee says that this can be seen as the 'best of both worlds... leveraging the power of the human curation, which has talent and then with personalising that with the algorithm. It's not just 100% curated, 100% algorithmic. It is the marriage of both of those skill sets, and we think that provides the best audience experience' (I^{9}).

7.2.3. BBC News

BBC News is different to iPlayer and Sounds in several respects. Perhaps most plainly, it is not a single unique platform, but stretches over two. There is the BBC News App, that people might have on their phones or devices, but there is also the BBC News Homepage, which would be accessed by any internet browser (www.news.bbc.co.uk). Both modes of access are distinct and are capable of deploy separate recommenders in their own right, so we must reflect each of them[191]. Secondly, unlike the other two platforms, BBC News has a singular focus, News. The

[191] For instance, there has recently been built an onward journey recommender for the App. As yet this recommender is not available on the webpage (I^{10}). This interviewee described the difference between 'starting journeys' and 'continuing (onward) journeys'. A continuing journey starts from the content that a user is currently engaging with and, upon completion or when the user is likely to be wrapping up with the content, they will be offered a series of recommendations, based on the content just finished. The rationale for 'continuing journeys' is that, most often, the best indicator of what sort of content a person will be interested in is the content they are current engaging with. Starting journeys are tougher in this respect, since the user is more of a blank slate as to their present state of mind – the system may have a recorded history for the user, but that is no guarantee as to what they are interested in right now. For that reason, starting journeys often begin with a rail, which allows for a greater range of content.

others cover a far broader range of content – they include news and current affairs, but they also carry content that would be regarded straightforwardly as entertainment. Thirdly, News was the third of the three to deploy personalisation, with there being some hesitation[192]. Even now, as we will note below, much of the content on BBC News remains firmly editorially curated, with the introduction of personalisation being carefully monitored (I^4).

News is a vital dimension of the BBC's offering. It is at the heart of the BBC's Mission and the first of the BBC's Public Purposes. The Annual Report is very keen to promote the reputation of the BBC on News, the degree to which it is trusted, the perception of its accuracy, as well as its reach. It remains the most used and most trusted of news brands (BBC 2023, 15-17; Also see Reuters Institute 2023, 58-59). It is not difficult to grasp why the BBC would proceed with caution in the adoption of personalisation technologies. It is at the heart of the BBC in its role as a public service broadcaster. News directly addresses those requirements to inform, educate, enable people to engage with the world around them. Judging it from the standpoint of the core responsibilities discussed in Chapter five, it meets all four.

For these reasons, the progress towards personalisation has been slower. Interviewee I^3 commented in interview in 2022 that the BBC was still in the earlier stages of developing recommenders for news and that part of the reason for this was the need to bring editorial on board. Without the involvement of editorial colleagues, data scientists and engineers, product managers, would lack the subtle and complex experience necessary to ensure that the news that would be surfaced by the recommenders would meet the editorial guidelines. These insights led to the creation and implementation of Machine Learning Engine Principles and Business Rules (to be outlined in sections 7.3.1. and 7.3.2.). The same interviewee also adds that the expertise brought to the fore by editorial staff in the development of recommenders in

[192] C^1, I^3 and 1^{10} all attest that editorial teams were slower and more hesitant to embrace personalising news content.

the field of News is also invaluable in the role of preparing metadata, since they have a far greater sense of the role it takes, adding that this is 'the way that the journalist can talk to the algorithm'. The way that metadata is framed and applied makes it far easier for the systems to be kept in check, to ensure that the right content is surfaced in the right situations. Getting this process right, and reliable, and trustworthy, even when there remains a human in the loop, has been challenging and this, coupled with the scale of the task, goes some way to explain why BBC News remains relatively behind the curve when it comes to personalisation.

Currently recommender systems in BBC News primarily operate utilising content-based systems only drawing firmly on the role of metadata already noted[193]. I[3] observing that this content-based recommenders tended to suit better the way that news is consumed, where issues rise and fall, and people are more likely to pursue their own topic areas than following the interests of others. However, the interviewee does consider that more collaborative filtering models may play a role in the future, stating:

> "... eventually we'll come to a point where there will be a whole suite of recommenders and, in the round, they will be public service, but some of them will become concentrated when optimised for say content that is really important for you to see, like the headlines type; some of it could be more personal. So it could be what are the things that are useful to you, what are the things that you're interested in, what the topics that you follow."

In terms of the user experience, we need to consider both platforms. While there are several similarities between them, there are also significant variations.

[193] I[10] notes that the small video recommender, which is currently deployed in News, utilises a hybrid content-based and collaborative filtering model – it operating more effectively than either technique on its own.

The BBC News App can only be accessed with a BBC account. If you download the App, before you can use it you must sign in or register for an account. This is the same account that you would use for iPlayer or Sounds. It includes name, email, gender, postcode and year of birth. Of these only, postcode and year of birth are used to determine what content is shown. Year of birth is used to ensure that inappropriate content is not shown to children, although any user under the age of 13 is expected to have their account linked to an adult's. Postcode is used to deliver news and weather to a user's specific geographic area (I[10]). For instance, given my postcode, I receive news and weather from the Birmingham and Black Country region. Within the settings there is the option to refuse personalisation. If a person selects this option, they will see the content as a cold start user, as though they had not used the App before, and as though the account had never been used.

Once in the App, I am shown the headline news story, which is displayed prominently and beneath this, four more major news stories as a grid with pictures, four more as a list with pictures, and then a further four as a list without picture accompaniment. All of these major news stories are editorially curated – any user would see the same selection presented in the same way. Beneath this, local news stories are personalised to postcode and will automatically generated according to recency (i[10]), with an option to expand this to a far broader selection.

The series of eight 'Features and Analysis', including stories from BBC Verify, which serve as providing background and detail to issues that are in the news, followed by 'Today's Videos', both of which are editorially curated. Stories under 'Most Read' are automated, but not personalised. However, there are, for most stories, onward journeys that are algorithmically generated, utilising the metadata for the stories, and presented according to criteria such as recency or prominence (in the case of explainers, which are often weighted more heavily) (I[10]).

A second tab on the App is entitled 'My News'. Here, I can select content according to a range of 'topic, place or person'. Once a selection has been saved within the App, news stories arranged

by relevance and recency are displayed. A third tab offers a search function. Results are displayed by relevance.

BBC News on the webpage holds many similarities to the App. An immediate difference, however, is that a log-in is not required for the webpage. A person can access all of the news on the BBC page without a log-in, although there is a prominent encouragement to log-in or register for an account. In addition, across the top of the screen, there is a bar with links to BBC Sport, Weather, iPlayer, Sounds, Bitesize, CBeebies, CBBC and Food. At the Top of the News screen, are links to news areas those listed above on the App, and in addition, Ukraine, Climate, and specific areas for Newsbeat, BBC Verify. The News Homepage offers the options for England, Northern Ireland, Scotland and Wales, Local News as well as Alba in Gaelic, and Cymru in Welsh. If a user clicks on any of these, they are offers a series of further refinements, for Scottish politics, business, regions, and so on.

On the Homepage, much like on the App, there are a series of headline stories, that are prominently displayed. The lead story is given a great deal of space, five more (including space for live coverage of an issue) are given space for a picture, seven more stories are presented textually. Below this there is a rail for any broad issue that has significance and is likely to generate several new stories – for instance, as I write there are stories concerning the Conservative Party Conference. Below this, there are 'Features and Analysis', 'Most watched', 'Also in News', 'Local News', a rail entitled 'Tackling it Together' that focuses personal money matters, links to the ten most read stories, Newsbeat, and Sport.

Unlike the App, there are no options for a My News area. In addition, the search function appears to cover the whole of the BBC's web provision, not exclusively news content. There is no option to refine the search function, to locate any more specific content.

7.3. The process of developing BBC recommender systems

In this section, I intend to drill down a little further into the processes the BBC went through in their development of recommender systems. In doing so, I will shed some further light on how the BBC has sought to engage with the challenges of balancing the pursuit of personalisation with their responsibilities to promote public service values. There will be inevitable overlap with the previous section and the section to follow. For instance, there was mention of the deployment of 'business rules' in relation to BBC News in the prior section. In this, we will note their place in the development of the BBC Sounds app, while there will be lengthier, more concentrated account in the following section.

One the repeated observations to come from the BBC is that if a balance is to be found between personalisation and public service values, there would need to be a multi-disciplinary approach to the design and development of recommenders (I^4). Datalab, the team set up in 2017, to the end of developing personalised services from the BBC, is formed by a partnership between data scientists, engineers and architects, product managers and members of editorial teams (I^1, I^{11}). The former group is tasked with developing the data architecture; product managers with overseeing the functionality and purposefulness of the platforms in development. Editorial, however, is seen as crucial in ensuring that recommenders are designed and developed according to the BBC's editorial guidelines and in compliance with the BBC's legal and regulatory obligations.

Boididou et al. (2021) offer a clear outline of the process undertaken and the challenges faced. They point to three distinct families of challenge: cultural, operational and infrastructural (Boididou et al. 2021, 538). Cultural challenges highlight the distance between the starting points of editorial and data-scientist approaches to the task ahead. Operational challenges focus on issues such as the requirement that editorial have the last word on recommendations, but when these are produced at scale, in real time, that will be difficult and require specific tools. Similarly, they focus on the difficulties in developing metrics that are capable of

measuring the values that will be at the heart of designing a public service recommender. Finally, infrastructural challenges concern the range of products and content at stake. The BBC has several products in play, ranging from 'brands' such Radio One, BBC III, Sounds to platforms such as iPlayer or BBC Sport. Each of these have their own characteristics and distinctive elements that need to be recognised and to some degree protected. Similarly, the BBC has a wide range of content, crossing several formats, genres, periods, styles. Recommenders work best when built with a degree of efficiency, producing a high volume of reliable results very quickly. To produce a recommender capable of responding to this environment is a challenge.

Once a specific product (such as iPlayer or News) is decided upon, the process of developing the recommenders can be divided into six steps (*ibid.,* 539):

I. ***Product design –*** The goals of the recommender are identified and the sorts of machine learning processes that are best suited are selected[194].

II. ***Small scale user tests –*** The user experience (UXP) team work through a series of tests to begin to factor in how the system will engage and respond with users. Following this stage a prototype will be designed.

III. ***Development –*** Refinement and curation of data, primarily content metadata tags. Editorial to 'integrate domain knowledge' to as to identify and embed business rules.

IV. ***Quality assurance –*** Editorial are more involved, reviewing recommendations, ensuring they comply with editorial guidelines and legal and regulatory requirements. It is felt that offline metrics fail to meet the needs of the recommender and so models are optimised towards editorial judgement.

[194] A fuller, far more technologically detailed account of this process as it pertains to BBC Sounds can be found at Al-Cheuer-Martins, T. (2021).

V. ***Internal Collection of feedback –*** A follow-on from the previous point. A tool is developed to gather feedback from internal users across the BBC, especially users under 35, who were asked to provide written evaluations on recommendations. Users were asked to comment on where recommendations were both relevant and engaging but also that served the BBC's Mission and Public Purposes. They must reflect the audience's diversity and 'have the necessary breadth and depth to help audiences understand and engage with the world and be impartial' (*ibid.*). If a recommender could successfully deliver all this, this met what they saw as fundamental to what could be seen as 'public service recommendations'. Feedback and advice from users will be fed back. This, as well as advice from editorial, especially the implementation of rules that prevent certain content or combinations to be surfaced. Finally, tests are put in place to ensure that performance is consistent. All decisions are logged and data scientists document performance and workings in layman's terms.

VI. ***Goes live –*** If performance reaches a certain threshold for enough weeks, then it may go live. Testing and monitoring will continue as well as deployment of A/B Testing (approximately twice a week), ensuring that the quality of recommendations are maintained and improved.

Figure 7.1, below, offers a snapshot of how the BBC's recommenders look. In the main, the diagram is much like any recommender. What distinguishes it is the presence and application of 'business rules'. The rules applied here relate to BBC Sounds and so are not concerned with the more sensitive issues present in the editorial guidelines. and such, in the way that the term is

often employed[195]. It is worth observing that some rules are applied pre-personalisation. So recent content is promoted over older, the content must be available. Some brands and genres would be excluded, if they were judged not suitable. On the occasion that potentially sensitive content might be in play, where news or current affairs content was involved, for instance, this would be where those rules would be enforced.

Other rules would apply post-personalisation and so would fashion the recommendations that would be generated for a particular user. For instance, they would exclude an individual had content already watch, promote radio local to the user. Perhaps most notable is the final rule, geared towards diversification. By limiting recommendations to one episode per brand or series, it expands the range that can be presented.

[195] Section 7.3.1. below offers more detail in respect to business rules and their application, especially how they relate to sensitive issues. This diagram relates to BBC Sounds, and so the business rules here are geared towards the operation of that platform. Different rules are in play in relation to BBC News.

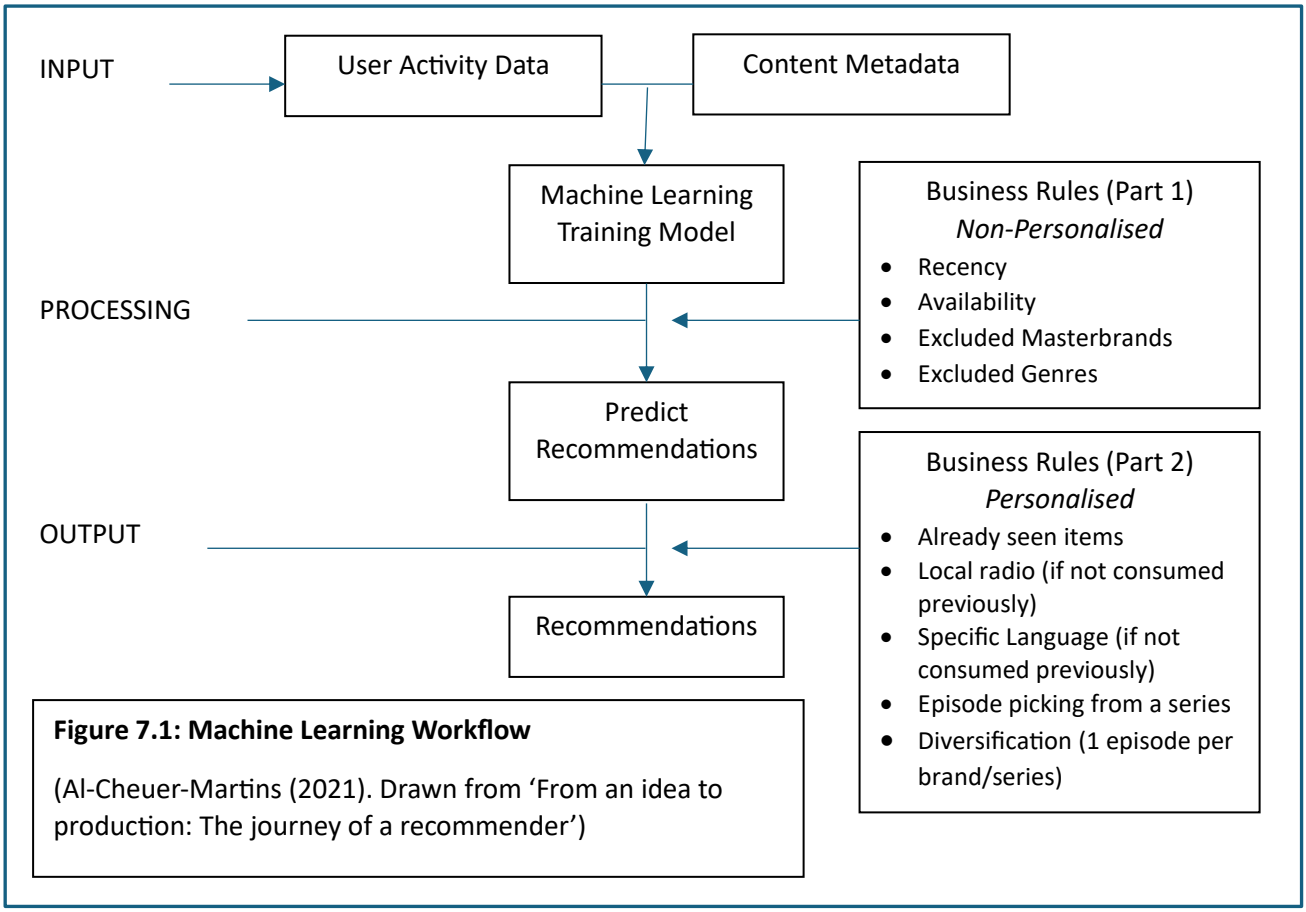

Figure 7.1: Machine Learning Workflow

(Al-Cheuer-Martins (2021). Drawn from 'From an idea to production: The journey of a recommender')

To elaborate a little more on some of the issues included in this overview, I want to comment further on content and the development of metrics.

7.3.1. Content

The BBC sees the risks that it confronts in personalisation as fundamentally distinct from the threats faced by other platforms. The challenges that have been well documented in respect to Facebook and YouTube – the worst risks of filter bubbles and echo chambers[196], the potential from hate speech, disinformation and so on – are less significant a problem for the BBC. The BBC does not deal in user-generated content, except within the scope of programming and content that is already produced within the BBC's aegis. By this measure, all content that will be distributed by way of recommender systems will have already been overseen and cross-

[196] I have commented above in Section 2.x.x. that the degree of risks from filter bubbles and echo chambers are less worrisome than initially thought. Nonetheless, some concerns remain.

checked against the BBC's editorial guidelines. Even where content has not been produced within the BBC but has been licensed from other producers and sources – for instance, films licensed to iPlayer – the selections will be made according to guidelines produced by the BBC and issued with appropriate content warnings. Furthermore, it is highly unlikely that the BBC will ever institute a recommender without a human in the loop. The BBC is aware of the risks and the responsibilities that it has to uphold the BBC's Mission and Public Purposes, and its 'business rules' and 'Machine Learning Engine Principles'[197] consider editorial oversight vital in assuring this.

A key issue for the range of content[198] held by the BBC is preparing it for use in recommenders. As noted, the BBC utilises a hybrid model of content-based and collaborative filtering. Content to content recommendations rely upon the presence of accurate and relevant metadata. For audio and visual content[199], most of this will input manually in the form of tags. Where tags are manually input, they are moderated. There is an existing list of accepted tags and to add a new tag requires that you go through a system to have it approved. There are a limited number of tags for content, so there are questions as to what makes a good tag. The question of the value of a tag is 'nuanced' – a tag might be useful for somethings but not for others. Improving meta-data is a current challenge for the BBC.

[197] See Section 6.4 for more detail.

[198] The range of content has raised a few interesting side-points. Some have commented that the breath of content that the BBC has, as well as the various formats, genres, etc. constitutes a strength and an opportunity for the BBC. Specifically, it enables the BBC to try out different modes of presenting it and incorporating it into recommenders. This is borne out in the range of products that the BBC is working on, including some of the still experimental formats (Semi-automated content, OBM, etc.). On the other hand, others have noted that the BBC still has far less content than other big recommenders like Netflix. The two factors that most benefit the success of recommenders are data – the more you know about your users and your content the better – and content. To be able to recommend content to a user such that you can offer them what they want when they want it, you must have an extensive, finely-tuned range of data. The primary BBC recommenders that we are considering have a great deal of content – comfortably enough to function – but not such that it will be able to offer a comparative degree of success as other, commercial, recommenders.

[199] Text based content, such as found on BBC News, will utilise the tf-idf method outlined in Section 2.2.2.2., which relies less on manual input of metadata.

This has proven a problem in the earlier stages of developing recommenders for the BBC. An issue identified with the first iteration of the BBC+ app, was the absence and inconsistency of metadata. Much of the metadata that was there in the form of tagging was not labelled with personalisation in mind (Eggink 2019). Inconsistency in tagging content can lead to poor recommendations – there needs to be a definitive and mutually agreed understanding of what tags refer to between the producers of the content who are responsible for the tagging and the teams responsible for the recommendation systems, and these understandings need to be consistent across all producers of relevant content. Since until recently, personalisation was not part of the agenda for most producers, the tags lacked this consistency and this precision.

7.3.2. Metrics

A consistent theme for the development of 'public service recommenders' is the challenge of developing effective metrics that track the promotion of public service values. This has proven difficult and for that reason, the Ada Lovelace Institute suggest that one of the primary responses employed by public service recommenders is to fall back on the established metrics exemplified in commercial recommenders (Ada Lovelace Institute 2023, 88). Click-throughs, time-spent, etc., offer clear, well-defined measures and they can demonstrate relevancy and reach and by extension support some definitions of public interest. They can also be used to measure some quantitative measures of diversity. While the BBC does measure and utilise those things, one strategy it has adopted (also identified by Ada Lovelace) is to 'indirectly optimis[e] for public service value by making their metrics the satisfaction of editorial stakeholders' (*ibid.*). As we saw above, Datalab used feedback from editorial team members as a barometer for success, for measuring the extent to which recommendations were meeting the objectives of public service value.

Nonetheless, when it comes to assessing the success of models as they are trialled and tested, a variety of metrics are considered. The primary metric that recommender systems are geared

towards is relevancy. Datalab's systems are geared towards a variety of factors: accuracy (relevancy), diversity, recency and surprisal (Piscopo et al., 2019). Recency ties into relevancy, as more recent news pieces are judged to be more relevant. Piscopo et al. state:

> "The ideal recommendation engine would optimise all these metrics providing recommendations that are relevant to the user, but they are also diverse, recent, and avoid the popularity bias. In practice this is a trade-off as an algorithm could provide diverse content that is not always very recent, and vice versa. In line with our values and objectives, we sometimes choose algorithms that compromise accuracy but guarantee to deliver diverse and recent content. Our online evaluation strategy focuses on AB testing and a variety of metrics including the number of clicks, the engagement time, and the unique content pages visited by a user. We have experimentally observed that certain models may not increase the engagement of a user with a specific type of content but they may encourage the exploration of different types of content. These insights are valuable as they may indicate a behaviour we did not anticipate in our offline experiments but that is equally important and aligned with our mission."

In sum, in trading off against different metrics, the BBC needs to consider the interactions between different measures. In order to promote public service values, it may be necessary to play down clicks or engagement.

The question of what counts as public service value remains a challenge for the development of metrics for the BBC. The report from the Ada Lovelace Institute notes:

> "When creating metrics for public service value, it will be important to disambiguate between different meanings of 'public service value'. A public service media organisation cannot expect to have one quantitative measure of public service value, which conflates a number of priorities that can be in tension with one another." (Ada Lovelace Institute 2023, 98)

The point being that it is unlikely that there would be a single metric for public service value. There will be a variety of components of value, each of which may translate into its own metric. These metrics, like the components, may not sit well against one another and may require various weightings (*ibid.,* 99). This process will be made more straightforward, the clear and more exactly defined the metric and its objective are.

7.4. How the BBC approaches concerns about recommenders

The BBC have already been devoting a great deal of thinking to the ethical dimensions of personalisation. Broadly speaking we can identify three fields in which the BBC has applied these questions. The first is to the technologies directly, namely, the machine learning dimension that fuels the recommender systems. The second concentrates on a series of ethical principles that are intended to clarify the way that recommendations are generated. Thirdly, 'business rules', which are concerned with applying the BBC's Editorial Guidelines and legal and regulatory obligations to the concrete circumstances of recommendation outcomes.

7.4.1. Machine Learning Engine Principles (MLEP)

In essence, these principles function as a checklist, through which teams that utilise machine learning technologies can be given pause to reflect on the operations they are considering. In doing so, it bills itself as a 'self-audit tool' to ensure 'thinking happens' (BBC 2021a, 5). This checklist embodies a series of principles developed by Datalab over some time. They are outlined in a BBC blog post by the former Head of Data Science and Architecture, Gabriel Straub (Straub 2019):

> The BBC's Values
>
> 1. The BBC's ML engines will reflect the values of our organisation; upholding trust, putting audiences at the heart of everything we do, celebrating diversity, delivering quality and value for money and boosting creativity.

Our Audiences

2. Our audiences create the data which fuels some of the BBC's ML engines, alongside BBC data. We hold audience-created data on their behalf, and use it to improve their experiences with the BBC.

3. Audiences have a right to know what we are doing with their data. We will explain, in plain English, what data we collect and how this is being used, for example in personalisation and recommendations.

Responsible Development of Technology

4. The BBC takes full responsibility for the functioning of our ML engines (in house and third party). Through regular documentation, monitoring and review, we will ensure that data is handled securely. And that our algorithms serve our audiences equally and fairly, so that the full breadth of the BBC is available to everyone.

5. Where ML engines surface content, outcomes are compliant with the BBC's editorial values (and where relevant as set out in our editorial guidelines). We will also seek to broaden, rather than narrow, our audience's horizons.

6. ML is an evolving set of technologies, where the BBC continues to innovate and experiment. Algorithms form only part of the content discovery process for our audiences and sit alongside (human) editorial curation.

These principles are reasonably self-evident as they stand, and the checklist that follows, beyond the first two categories, extends their reach. The first two categories concern scoping the project and its planning. It requires the data scientist to account for the application of machine learning technology – amongst the questions asked:

- Is it a task that demands machine learning?
- Which of the BBCs public purposes is being supported?

- Who will be impacted?
- What are the risks?
- How are you defining success?
- Will your application affect children?
- Do those that provide feedback – such as testers – bring different perspectives? (BBC 2021a, 8, 10)

There follows several further sets of questions that relate to issues of editorial values, including user and content insights, other relevant BBC processes, data and privacy, training and testing, model documentation and transparency, and finally the life cycle management and performance monitoring.

It's worth reiterating that this is not part of any 'governance framework that needs to be ticked off' (Straub 2019). There is no independent monitoring of the outputs of the checklist, either within or outside of the BBC. It is positioned as a thinking tool to guide the choices of teams working on machine learning driven processes.

7.4.2. Business Rules

We have mentioned 'business rules' in each of the previous sections. In short, they are a series of rules applied throughout the process of generating recommendations that ensure that what is generated complies with the BBC's editorial guidelines and the BBC's legal and regulatory obligations (BBC 2019).

For instance, the BBC has a duty of care for both contributors – those who provide content, by way of stories or participation – and those who eventually receive that content – the audience. In both cases, it is essential that the BBC and all the teams involved in producing and distributing content, respect that duty and are aware of what it entails. It certainly is not that problematic content should be avoided, but that the context and nuances that surround the content need to

be carefully examined. So ‘business rules’ are concerned with legal constraints as well as editorial policy. Further, two concerns arising from the BBC’s legal obligations in respect to recommendations in News are contempt of court and defamation. Where a new court case commences, it is essential that any recommender does not surface any material that concerns previous, older cases. Similarly, the BBC must be careful not to give an account of a person or their actions such that they might be accused of defamation or surface an account of a person such that it provides only a one-sided account.

When implementing business rules, the teams responsible for recommendations have four tools at their disposal; they can exclude content, time limit content, upweight content or downweight content. By dialling up or down these levers and applying relevant filters to content, recommender systems can be adjusted.

They might also be adjusted to reflect business rules as well as public service principles. An example would be promoting content such as ‘explainers’. Explainer content is content that does not so much recount the news or current affairs issues as explain it – spelling it out plainly and clearly and providing context and detail. So, if there were an announcement regarding coronavirus, there would be an Explainer produced also, that would explain about the virus, its transmission, symptoms, as well as any current public health information relevant. Other similar examples would include fact checking content, a key arm in the battle against misinformation and ‘fake news’, or supportive content that might be promoted alongside stories of illness or mental health.

This last example illustrates further how business rules might be seen. If there were a story about, for example, suicide and a user clicked on it, it would be undesirable if recommendations on that page were full of stories on that topic, especially given we don’t know the state of the user. Similar concerns would surround self-harm, eating disorders, addiction issues. Similar issues connect with questions of privacy. A contributor may have consented to

their contribution being broadcast and placed online at the time of its production, but it does not follow that they will continue to consent five or more years later – they might feel very differently about the matter, have children, or just not want to be reminded of that period of their lives. It is not that the content would be deleted, but it might not be surfaced in the same way. In a similar way, business rules will concern proximity. A simple example would be to never place political content nearby to satirical content. It is looking to ensure an appropriate fit between the relationship between content[200].

A further related issue is similar but more sensitive and goes some way to explaining how balancing the production of recommendations with editorial overview can be vital. Where a sensitive issue, such as racism, arises, there can be difficulties in fine-tuning the content that gets recommended alongside it. An example given in interview: a short form video was produced and put online, featuring footballers Anton and Rio Ferdinand talking about their experiences of racism as children. This piece would include the metadata tags, sport, football, and racism. If the recommender is configured to simply pull up 'nearest neighbour' content, what it draws up may be inappropriate, out of sync with the piece. By contrast, a previous rule

[200] Interviewee I[10] summed the process by which business rules are integrated into the recommendation process:

> "The user is … on a certain article, the seed article. So we populate the query with metadata from that seed article and then we send it off to [the database] and it scores all of the articles in the database with respect to that query and then returns, say the top 10 or something. There are different clauses to that query. Some of the clauses are score clauses, and then other clauses are filter clauses. … The business rules tend to be characterised in the filter clauses, for example, we would have certain business rules. There are plenty of business rules associated with recency, for example. So, it's the case that we never want to surface content that's older than a year - that may be one rule. But there are certain types of articles where we never want to surface anything that's older than two days or 24 hours. Yeah, and that needs to be expressed in the query, within the logic of the query so it's like only so you have to say things like: if an article has been designated as legal, only surface it if it's within 24 hours old. If it's about coronavirus, only surface it if it's the last two weeks old, because … it's very important that we don't surface out of date information - about something that is changing regularly at a very quick cadence. Whereas there are other types of content such as Explainers. So like, a Brexit explainer, a Middle East conflict explainer, which Evergreen. Yeah. And that that's the type of content that we we actually might boost because it seems very good content that is not time dependent."

that the BBC Sports recommender had had in place at one point was to exclude content with the tag 'racism', so of course, an awful lot of thoughtful and vital pieces were becoming lost. At the heart of the matter was that there needed to be very careful scrutiny of the content, including a careful understanding of it, such that it is not simply a matter of 'tags' and content features. Interviewee I[4], explains:

> "You have to be really sure what the source piece is about. You have to be really sure what your rules that you've already implemented are. You have to be really sure about the content that we have – to have a good overview. And then you have to keep improving it… There are several sets of considerations that are running on train tracks alongside each other – an editorial point of view, from an audience point of view, from a machine learning point of view – they're all running at the same time."

Writing in 2019, McGovern states that the desire is that the content recommendations should feel 'personal', which includes the possibility that it is not optimised for peak popularity. While typical commercial metrics like click-rates are desirable – McGovern is unambiguous when she states that 'we want our content to reach and engage as large an audience as possible' – the BBC's priority is to uphold the public service values represented in the BBC's public purposes enshrined in the Charter. Some content may be optimised for a wider audience, but not all – some may target smaller, more specific groups.

7.4.3. Human Values Approach

When it comes to the development of ethical principles and explicitly facing the moral dimension of recommender systems, the utilisation of machine learning technologies, or simply facing the challenges that are emerging as public service broadcasting transforms into public service media as a consequence of the 'digital age', again, the BBC has spent time reflecting on these.

A thorough-going attempt by the BBC to engage with the moral dimension of the digital age was a White Paper published by BBC R&D in 2020 entitled *Human Values: Understanding Psychological Needs in a Digital Age* (Kerlin 2020)[201]. As the title suggests, it takes develops a psychological framework, focusing on the role that values have in shaping needs and behaviour. Kerlin defines value as a 'personal judgement of importance, an expression of need and a psychological driver that shapes everyday behaviour' and that 'researching values acts as a gateway to needs and behaviour – by understanding the intermediary factors that drive behaviour and are driven by needs' (Kerlin 2020, 6).

However, a weakness here is that it lacks a definite thread to concrete applications of technology. It leaves the concretising dimension of design work to the designer. Put another way, the risk is that it remains a prompt and lacks any substantial impact on the design process – human values are a suggestion, not a requirement.

7.5. Tension in the BBC's deployments of recommender systems and its public services values

And yet, for all that we have said, it seems that the BBC is still struggling in the face of the tension that we have noted from the outset. As much as the BBC continues to declare fealty to its public service principles, its public purposes – the grander and loftier ideals that have been instilled in it since Reith, there remain real signs that the principle of consumer sovereignty, grafted following Peacock, sometimes threaten to dominate.

[201] The origin of the Human Values framework grew out of an effort to reach the 16-35 age group, who had proven difficult to engage. Kerlin proposed that rather than simply serving up more of the same, the BBC ought to conduct research into what users actually valued. The study was technology and media-agnostic in that it was not addressing individuals' values in relation to particular technologies or platforms or content, but as it is in general.

Public Service Mission and Public Service Values remain at the forefront of the BBC's self-identity. A survey of the 2022/2023 Annual Report and Accounts sees the phrase 'public service' appear 82 times (BBC 2023). The first paragraph of the Director-General's Review reads:

> "The BBC has a simple goal: public service content and services, available to everyone, for the good of all. Everything we do is focused on making sure we keep delivering the critical benefits of public service broadcasting – cultural, social and economic – to the whole country for the long term." (BBC 2023, 6)

It is also plain that this is not mere rhetoric. The research in the report corresponds to the BBC's Public Purposes, engaging with the degrees to which the BBC meets those objectives across the UK population. We find research into representation, meeting the needs of diverse communities, original, distinctive content, learning, producing trustworthy news, and aiding understanding and engagement of the world around them. It is also plain that in many respects the BBC is successful at delivering these objectives (BBC 2023, 140-147).

These convictions are shared amongst the staff. Each of the people I spoke to for this study all echoed the importance of public service values. When I brought up the tension between consumer and citizenship values, all recognised the difficulty that was faced to the BBC. Interviewee I[7] suggested we could see the challenge of personalisation and recommenders as a three-way power battle between editorial, the audience and the organisation as a whole. So, the audience want what they want, and the organisation – the BBC as a business – want to be a relevant organisation, looking for frequent visitors, people to be interested in the what the BBC is producing. Meanwhile, editorial want to be able to control and choose what counts as news – they want to promote those stories that they think are important. Of course, this is a caricature, especially when it comes to the organisation and editors – editors are part of the organisation and the organisation shares many of the convictions of the editors. Nonetheless, the competing sets of priorities, from the audience, the commitment to public service principles and

journalistic values and the desire for a relevance that underlines the organisation's right to exist, shine through.

Even this, though, demands some sort of parsing. The organisational imperative to attract viewers and listeners, to appeal to a larger, more mainstream, audience is not wholly distinct from the public service principles. The BBC is a universal service and is to promote national identity and social cohesion. While this does not mean that all content needs to appeal to all people all of the time, part of being a public service is that the BBC can speak broadly at times, and engage with the nation more widely, and this demands the capacity for widespread engagement and appeal. So appealing for larger audiences does not automatically equate to some sort of raw consumerism. The picture *is* messier than that.

Nonetheless, to illustrate this tension and how it manifests, one of the four strategic priorities for the BBC in the 2023 Annual Report is to 'Extract More Value from Online' (BBC 2023, 5). When we examine what is meant by value in this context, it all seems to be framed in terms of consumption and reach: how many streams, plays, what proportion of the population is reached and so on[202]. Accepting that these sorts of indicators are far easier to demonstrate and

[202] Exactly, it reads:

"More and more of the content that audiences of all ages consume from the BBC is online. In order to deliver value to all, the BBC's online products must therefore be world class and offer the best possible experience. We have made great progress with BBC online, with News, Sport, iPlayer and Sounds. But we need to go further to join up our offer and help audiences discover even more of the distinctive content across our platforms. This year we have worked hard to extract more value from online by:

- breaking new records for iPlayer with 7.3 billion streaming requests, up 11% on last year, including 110 million for Happy Valley alone in the first three months of 2023
- working with partner organisations to make it easier for everyone to find and access iPlayer however they want, whether via streaming sticks or different TV platforms
- serving 1.64 billion plays of radio, music and podcasts on Sounds, up 7% on last year
- reaching one-in-three UK adults on average per week with BBC News Online and doubling the views of BBC News live pages
- transforming the way listeners can discover content with Back To Back Sounds, offering hours of uninterrupted music curated by our experts and big names in the music industry

to present in response to targets, it is telling that there is little here that speaks to the collective, societal goals of public service.

A similar example is seen in the Ada Lovelace Report, in presenting the goals of BBC Sounds as a product team in 2021:

- Increase the audience size of BBC Sounds' digital products.
- Increase the demographic breadth of consumption across BBC Sounds' products, especially among the young.
- Convert 'lighter users' into regular users.
- Enable users to more easily discover content from the more than 50 hours of new audio produced by the BBC on an hourly basis. (Ada Lovelace Institute 2023, 86)

At the same time, David Jones, Executive Product Manager of BBC Sounds, was reported as saying that 'his top-line KPI is to reach 900,000 members of the British population who are under 35 by March 2022' (*ibid.,* n.143).

Again, simple quantitative targets are attractive and easily measurable indicators, and they are not, in and of themselves, sufficient to declare BBC senior management wholly in the thrall of consumerist principles. But again, the absence of wider perspectives on public service value are notable.

A report, conducted by Nesta into the implementation of a Human Values approach, found, amongst other things, that 'whilst practitioners saw the benefit, the matter of convincing and getting buy-in from senior managers, stakeholders and other leaders was the main hurdle perceived to getting the framework embedded into the organisation' (Nesta 2021, 14).

- increasing our understanding of what audiences want from our digital products, with over 22 million accounts accessing our products on average per week in 2023 so far and a signed-in user base of over 50 million accounts in total."

Interviewee I[7] is direct in suggesting that, as matters stand, it is less a matter whether the BBC has the appetite to wrestle with the tensions between audience, editorial and organisational powers, than that most have not even registered the tension[203]. It is beyond the scope of this study to say whether this is accurate or not, but one of the proposals of the Nesta report was to suggest that if there is to be a change in the way that values are perceived and interpreted within an organisation, there needs to be a 'top-down' approach. While grassroots, bottom-up, innovations are often successful at assuring the buy-in of team members, so long as they are at odds with the values of senior members of the team, those that determine the primary objectives of that team, there will be limited success (*ibid.,* 14-15).

By a similar token, interviewee I[5] concludes that success at resolving the tension requires that there is a fundamental clarity about what values are at stake. He observed that as a journalist, everyone, because it is at the heart of their daily practice, knows what impartiality is, and that the curation teams will know what a diverse rail looks like, and so on. But this 'knowledge' is not explicitly expressed, rather it is implicitly understood by practitioners. This is fine in certain contexts, but he bluntly observes that 'implicit understandings of values are useless for machine learning'. The greater the emphasis on automated systems, like recommender systems, the more well defined these values need to be.

The challenge for the BBC is to strike that balance between pursuing engagement and viewers and clicks and so on, and managing to marry that with ensuring that its core responsibilities are met. In the next chapter, we turn to gather what we have learned regarding the BBC's

[203] They continued:

> "I think editorial have control of the front page and the top of the app and all the big places and recommenders are down to the onward journey paths like on the side, down.. There's like one called 'Most Read' or there's a 'Featured' thing but even Featured is coming from a manually curated, or mostly from manually curated group selection. So editorial haven't really lost a lot of power here but I think what's going to happen is that the organisation will become more metrics driven and more driven by A/B testing, now that we have A/B testing available to us, then the pressure... that conflict will become more accentuated. Because if we get it this way, then we could get all this extra frequency."

deployment of recommenders, and use the analytic framework, and the four core responsibilities, drawn from the BBC's role and legal responsibilities, to assess and evaluate the degree to which the BBC meets those duties.

8. Applying the Analytic Framework

Here, we come directly to our research question – how can the BBC deliver personalised media content recommendations responsibly? – and we offer a direct and comprehensive answer to that question. We have identified four core responsibilities, distilled from an examination of the BBC's role responsibility, founded on its position as the nation's primary public service broadcaster, and the scope of the BBC's legal responsibilities, founded on relevant laws and regulations. These core duties look to streamline and compact the BBC's duties in this regard, and to operate as a tool or a measure that we can apply, to answer our research question, but also to consider the BBC's operations directly in order to assess and evaluate the actual deployment, as matters stand. If the analytic framework is to operate as a tool in the manner we propose, we must be able to apply it this way.

8.1. The First Pass: Cashing out the Analytic Framework

In this chapter we look to cash out the analytic framework – to apply it. To do so, we will conduct three passes. In the first, we consider each core duties in turn, to interrogate it and investigate what it implies for the deployment of recommender systems. Each core duty, in this way, needs unpacking to see what it demanded, so we will consider, what it means, for instance, to say that the BBC has a core responsibility to support the place of democratic deliberation. What does that look like? It is worth noting that this first pass will remain somewhat abstract and idealised, since it is not specifically grounded in the real-world deployment of recommenders. In the second pass, we will consider the application of these core duties to the actual deployment of recommenders by the BBC. Applying the core duties, as unpacked, and looking to develop an assessment and evaluation of the BBC's current performance and comment a little on whether we think that the BBC is meeting those duties. In the third pass, I will look to highlight what the BBC might look to consider as it continues to seek to deploy its recommenders responsibly. I

will offer one general recommendation, which, although prompted by the core responsibilities, is not a consequence of any single one. Following that I will offer a recommendation specifically responding to the requirements of the core duties.

8.1.1. To support the place of democratic deliberation

In headline, this core responsibility is to support the place of democratic deliberation, to prepare and enable people to deliberate with one another as part of their democratic engagement. Unpacking this, there is a requirement to promote positive engagement with democratic processes, to form opportunities for people's knowledge of essential and relevant matters to be enhanced, encourage reason giving, make space for people to change their minds, to encourage democratic deliberations that aims towards the building of democratic consensus.

Although part of the purpose of the analytic framework is to streamline the range of responsibilities that apply to the BBC, we must keep in mind, at this stage, the laws and regulations that the core duties stemmed from. This will ensure that the core duty is kept grounded in the legal and regulatory duties it stems from. In this case, the laws and regulations that lay behind this core responsibility are requirements for the BBC to promote universality, social cohesion and acceptance of diversity, that understanding should be promoted through people being informed and educated, that information broadcasted should be impartial and independent, that freedom of expression including the right to receive information recognised.

What this means for recommender systems:

- The BBC must operate with the assumption that the vast majority of users, as citizens, are active, engaged and interested in their consideration of the sorts of social matters

that are at stake, operating with a direct openness to political discussion (Strömbäck 2005, 339-340)[204].

- Recommenders must deploy in such a way that exposes a user to different points of view and that resists the user's own homophily to focus on content that they might agree with.
- Where there are relevant explainers, especially regarding contentious issues that reflect different points of view and elements of discussion likely to be key topics in democratic decision making, these should be weighted heavily to ensure that they are surfaced.
- The content recommended should, where relevant and appropriate, be augmented with practical considerations and guidance regarding the actions of engaging and participation in the democratic process.
- Be mindful that engaging in democracy need not be confined to typical political matters, in the sense of this candidate stands for *x*, this one for *y*, and so on.
- Recommenders must surface content that promotes understanding across a range of issues, and in so doing, reflect different points of view.
- It is true to say that BBC content, especially current affairs content, already beholden to rules concerning impartiality (BBC 2021c), is likely to represent different positions, but recommenders cannot fall back on that.
- They should be capable of recommending content on the same issue but with contrasting ideological standpoints. (This poses a metadata challenge, for it must be sophisticated and detailed enough, to flag up that content is similar in some respects but contrasting in others.)

[204] This lies in potential conflict with the typical modes of deployment for recommender systems, which generally care nothing for the social, political, civic environment in which it is found (Müller and Schwarz 2018, 28, Taub and Fisher 2018, Vaidhyanathan 2018, 132, Burr et al. 2018, 766).

- Promotes practical reasoning and reason giving, and so users need to be encouraged in the development of those skills where possible also.
- While emphasis is often placed on current affairs and factual content, non-factual, entertainment orientated content also has a role to play in this process (See Curran 2010). As was flagged up by Young (1996, 129), when we considered the recognition of difference, storytelling can be a vital means of sharing different stories, reflecting different points of view, but also different modes of partiality. The responsibility of generating recommendations with a view to supporting democratic deliberation must extend to content not normally considered in that light. The generation of metadata, even in entertainment contexts, ought to consider the role it might play in respect to deliberation
- In respect to News, there should be a wariness of closure in the sense of matters being closed, settled and no longer up for debate (Ferree et al. 2002, 317-318). Recommenders should remain open for users to revisit issues.
- To not surface any content that would interfere with democratic processes, such as elections.
- Recommender systems need to promote the balance between universality and cohesion and diversity.
- Recommenders need to be ready to surface material that is capable of binding us together as a whole, through pointing to moments of common national significance.
- Recommenders must also be able to expose us to expressions of difference – where the nation's sympathies are split and divergent. Where Reith talks of broadcasting as the 'integrator of democracy' (Reith 1949, 136), this is what he means.

8.1.2. Our need for epistemic trust

In headline, this core responsibility promotes an environment where citizens are enabled to locate epistemically reliable information as they form, deliberate and justify their positions, and, in the scope of democracy, vote. Unpacking it, this extends to enabling people to recognise competent experts and authorities and encouraging people to develop their capacity for practical reason as well as their ability to assess and evaluate arguments and information carefully. Its goal, or aspiration, is to develop a state of social cohesion, where trust forms a basis for the legitimacy of democratic power.

The laws and regulations that underpin this responsibility are similar to those that lie behind democratic deliberation – there is some overlap here that will lead to some repetition in the implications for recommenders. There are requirements that the BBC informs and educates, helping users to access information about the world and societies they live, as well as enhancing their understanding of the world. The BBC should uphold the freedom of expression, especially the right to receive information. The BBC should promote impartiality and seek to highlight the trustworthiness of institutions, enhancing the role of trust, especially in the world of political discourse and deliberation. It should uphold and promote the trustworthiness of the electoral process and underline the legitimacy of the democratic process. Ultimately, the BBC should affirm the cohesiveness of UK society and resist its fragmentation.

What this means for recommender systems:

- While fears regarding filter bubbles and echo chambers have proven overblown, there remain concerns, especially for people not well versed in online news and communities, or who are already on the path to radicalisation and have become very distrustful of mainstream media news sources. Recommenders must maintain a vigilance regarding ensuring a diverse range of news stories, including a diverse range of outlooks and perspectives.

- Impartiality must be paramount in what is surfaced by recommenders – what is recommended must be seen to be independent from prevailing political positions.
- By contrast, recommenders should surface content that reaffirms the communal dimensions of UK life, to counterbalance the process of personalisation by allowing opportunities for to engage with the same issues, events, perspectives, and diminishes the reach of a collective public sphere (Moeller & Helberger 2018, 4). For trust, some sort of commonality is vital – there needs to be the perception of a 'common space', where all parties have some investment (Eskens et al. 2017, 270).
- Trust in the personalisation process itself should be affirmed and promoted, ensuring that there is adequate transparency and accountability in its processes, and that users are given clear information about how they can interrogate them[205].
- Related to the previous implication, users should be very clear what is an algorithmically generated recommendation and what is editorially curated[206].

[205] A further question that may prove key in some respects is the extent to which the user, and the fellow deliberator of the user, understand the role that recommender systems play in in the development of the users understanding of the world. Attention has been directed at the capacity of recommenders to offer explanations for the recommendations generated, a problem that has roots in the 'black box' problem inherent to machine learning technologies. As far back as 2007, trust has been a key value in facilitating explanations in recommenders (Tintarev & Masthoff 2007, 801; Tintarev 2007)), that they will be more likely to inspire trust and loyalty in users. However, the direction of travel here is primarily commercial – trust and loyalty being seen in the mode of maintaining a customer base more than anything else. But it is also true that effective explanations of recommendations – why I am being recommended this news item? – will increase the epistemic trust that a user has in the system. If a user is offered a recommendation and she can see that that recommendation relates to information gathered from her use of the system in the past and is pointing towards content sources that she has used in the past and deemed reliable, she is more likely to trust the system in future – not only in its reliability in recommending things that she might be interested in but also in grounding those recommendations in content that is epistemically trustworthy. Likewise, her fellow deliberator will be more inclined to view her claims and perspectives as trustworthy if they can see that she is sourcing her information credibly. There is value in extending the reach of explanations for recommenders beyond the user in isolation, but in demonstrating more broadly the epistemic credibility not only of the source but of the recommender as well. This does demand that the user as well as the fellow deliberator has 'a theory of the recommender' (Ghori et al. 2019), which is to say that they have a sense of how recommender systems work and generate recommendations. In their study Ghori et al. found that many users did have a clear idea of how recommenders worked – 'for example … [they] keep track of past behaviour, identify similar users, leverage metadata, and seek to provide relevant and diverse recommendations' (Ghori et al. 2019, 8).

[206] A final issue from our discussion of concerns in Chapter 2 that we find the core responsibility of epistemic trust speaking to is the degree to which recommender systems impact the editorial and

- Recommendations and the ways that content is presented in recommenders should help to clarify where it is trustworthy and how they can know that it is trustworthy.
- There should be freedom to recommend content from beyond the BBC, where it can add to the national dialogue and where it can be demonstrated as trustworthy and reliable.
- Where there are relevant explainers, especially regarding contentious issues that reflect different points of view and elements of discussion likely to be key topics in democratic decision making, these should be weighted heavily to ensure that they are surfaced.
- The content recommended should, where relevant and appropriate, be augmented with practical considerations regarding the actions of engaging and participation in the democratic process.
- Recommenders must surface content that promotes understanding across a range of issues, and in so doing, reflect different points of view.
- They must still be capable of recommending content on the same issue but with contrasting ideological standpoints. (This poses a metadata challenge, for it must be sophisticated and detailed enough, to flag up that content is similar in some respects but contrasting in others.)
- Promotes practical reasoning and reason giving, and so users need to be encouraged in the development of those skills where possible also.

journalistic processes. We noted that editors and journalists had historically played the role of 'gate-keeper' and that while this in itself was problematic, in their being reduced, by the operations of recommenders, to 'gate-watchers', the extent to which news brands were able to act as guarantors of quality, conferring authority and, in effect, trustworthiness to news was threatened. Interestingly, this does not necessarily follow. The *Reuters Institute Digital News Report 2023,* reports that 30% of respondents agree with the claim that having news selected algorithmically on the basis of previous consumption is a good way to get news. 30% disagreed. This contrasts with 27% who agree that having news selected by editors and journalists is a good way to get news, whereas 31% disagree. However, only 19% agreed with the claim that having news selected algorithmically on the basis of what friends have watched is a good way to get news. 42% disagree. (Fletcher 2023, 33).

- In respect to News, there should be a wariness of closure in the sense of matters being closed, settled and no longer up for debate (Ferree et al. 2002, 317-318). Recommenders should remain open for users to revisit issues.

8.1.3. The recognition of difference

In headline, this core responsibility is to respect and appreciate the role of diversity across UK society. This includes the responsibility to accept that differences cannot always be overcome by impartiality and neutrality, or that conflict can be avoided or that consensus can be achieved. It calls us to reflect deeply on diversity and on individual's distinct identities. There is a responsibility to look for other ways of communicating and thinking about how diversity and inclusion can be understood.

When we recall the laws and regulations that provide the foundation to this core responsibility, most prominently we find responsibilities directed towards promoting diversity and inclusion, recognising, respecting, reflecting and representing the UK's diverse communities and ensuring the capability for those communities to access and participate in the BBC's services and activities. There are also responsibilities directed towards ensuring the BBC educates, informs and entertains and maintains the freedom of expression. There is also the responsibility that the BBC promotes innovation and 'fresh approaches'.

What this means for recommender systems:

- To continue to promote diversity in different forms. Discussions of diversity have noted different models: structural, source, content and exposure (Helberger 2018, 162; Trielle & Diakopoulos 2019; see also Voakes et al., 1996), and these correspond respectively to the media landscape, range of media sources, diversity of viewpoints as represented

in the content available, and the range of content actually engaged with. So diversity can indicate:

    - Different platforms (within the BBC this is of limited applicability)
    - Different sources of information
    - Different viewpoints
    - Different content (genre etc.), such that it 'reflects, represents and serves the diverse communities of the UK'.
    - Difference of appeal (the inverse of universalism)

- Attention must continue to be directed towards developing recommenders that are optimised for diversity. Clark et al. notes that the BBC still wrestles with it (2023, 552), and Stray et al. (2022, 10-12) demonstrates that there is still much attention directed towards how to think about the issue. Sørensen proposes that diversity will always be a challenge for recommender systems since it poses not only mathematical problems but also because it awaits answers to questions of what diversity means, how it is expected to support democracy, what sort of democracy is to be supported, and so on – in fact, he concludes that the problem is less one of algorithms and more a problem of philosophy (Sørensen 2022, 302).
- Recommenders must surface content in other UK languages, as well as content with subtitles, audio descriptors.
- There must be recognition that users do not fit into single categories, but often spread over several, and often inconsistently.
- Recommenders, in their user experience, ought to be configured and perhaps configurable, in different ways, utilising different languages, but perhaps also different cultural norms – rails run right to left, for instance.
- Recommenders, as well as platforms, ought to recognise that one way of supporting and speaking to diverse communities is to cross genre boundaries – in the sense that

one way of informing or educating is to entertain. Sørensen suggests whether we should consider extending our discussion of it to include aesthetic as well as other considerations, which might extend beyond news and current affairs (Sørensen 2022, 300, 298).

- As much as recommenders should recognise and engage with pluralism, there should be attention paid to inclusion, allowing commonality and cohesion.
- Recommenders must also be able to expose us to expressions of difference – where the nation's sympathies are split and divergent. Where Reith talks of broadcasting as the 'integrator of democracy' (Reith 1949, 136), this is what he means.
- In respect to News, there should be a wariness of closure in the sense of matters being closed, settled and no longer up for debate (Ferree et al. 2002, 317-318). Recommenders should remain open for users to revisit issues.
- Recommenders must surface content that promotes understanding across a range of issues, and in so doing, reflect different points of view.
- Attention should be paid to ongoing 'innovation and fresh ideas'.

8.1.4. To protect the individual's development of the human capabilities and the defence of their human rights

In headline, this core responsibility is to ensure that peoples' rights are protected and not violated, but also that individuals are given the space and opportunity to develop their own capabilities such that they can live a flourishing life. This entails giving people the freedom and facilities they need to make their own choices, develop their own interests and rationality, explore the world on their own terms, including how they engage with others and the world around them.

The responsibilities that underpin this core duty reflect in large part the protection of individuals' rights, mostly prominently those related to data protection – which address the use and gathering of data, especially personal data, and informing users of what purposes this data is being put towards. There is focus also on assuring the users' data rights are protected. People are to be protected too, under 18s predominantly, but also people from defamation and other harms and offences. The right to privacy is to be protected, but we must recall our earlier discussion recognising positive and negative conceptions of privacy. Negative conceptions mainly recall data protection, but positive conceptions push us towards thinking directly upon the development of human capabilities, specifically the development and protection of autonomy. Finally, it includes the responsibilities to be informed, and to protect the freedom of expression.

What this means for recommender systems:

- All rights regarding data protection must be recognised:
    - Consent must be sought for all personalisation.
    - Users should be informed what personal data is being gathered and how, as explicitly as possible,
    - Users should know how to challenge personalisation, who to contact.
- Under 18s should be protected from harm and inappropriate content
- Users (in general) should be protected from harm and offence.
- Recommenders should offer warnings on content that runs the risk of causing harm or offence.
    - Recommenders should offer prompt to ensure consent regarding harmful or offensive content.
- Recommenders should not surface any material that might lead to defamation.
- The right of privacy should be respected.

- Recommenders should also promote the implications of positive conceptions of privacy, that each individual has the space to work out who they want to be, to work out for themselves what it means to flourish (Nussbaum 1988, 2).
- Recommenders should consider the ways in which they, through the recommendations they produce as well as the choice architecture and the user experience of the platforms, impact their users. Delacroix & Veale (2020, 94) write:

> "Our appetite for control and predictability is far from new. The sophisticated profiling endeavours attempting to personalise our choices can be read as merely extending the scope of this long-standing appetite. Personalisation does have clear benefits… Yet the extent to which, just like any tool (perhaps more so than any other tool), it will end up *changing* its users must be considered critically. Here we have argued that our current regulatory focus on addressing epistemic imbalances (e.g. through explainable systems) is, on its own, inadequate, and additional approaches and tools are needed"

  While the focus of this paragraph is smart technology in general and not recommenders, what they say here has clear application to that question. Smart technology as well as recommenders have the capacity, through their affordances, to change the lives of users in potentially significant ways without being at any point obvious. In section 3.2.2., we commented on the risks that recommenders have to encroach on our privacy and autonomy, interfering with the spaces where we develop our sense of self; our ideas, our thoughts, our convictions. This has overlap with the concerns raised at the heart of human rights discourse.
- Observe the freedom of expression, especially regarding the person's right to receive information.

- Allow people scope to turn on or off personalisation, adjust, enhance recommendations.
- Recommendations should encourage people to widen their horizons, explore their interests, enable people to find out who they are. Eskens talks of the 'personal information sphere', which she defines as the 'domain where people can determine for themselves how they interact with information about the world and how other people may interact with information about themselves' (Eskens 2020, 1123). It includes the notion of 'intellectual privacy' already discussed (Cohen, Richards), including but also the freedom of expression, the freedom of thought and opinion.
- This core duty promoting the development of human capabilities is seen in promoting educating and informing people. In previous core responsibilities this is directed towards people on account of their engagement with others, whereas here the focus is more about a person's own self-development, their learning about themselves and their world. For recommenders to promote this duty, they must respond to the way that individual's learn, which is often slowly and falteringly, especially outside of a formal educational environment. Recommenders ought to reflect this, being willing to resurface content that has previously been engaged with, to offer opportunity for deeper knowledge.

8.1.5. Implications of the rule of law

Before we sum up and turn to our second pass looking at applying the analytic framework to the operations of the BBC, I want to add a couple of comments regarding the rule of law. As we observed in section 6.2.3., the core duties of the analytic framework are founded on the principles of liberal democracy under the rule of law. There is a matter, stemming from a discussion of the rule of law that I feel this application would benefit from. One key dimension

of the rule of law concerns that the rules and processes that govern us are transparent, such that we can see them, judge when they appropriate or not, and in turn, know whether or not we are justified in challenging them, as well as who to challenge and how. We want to be able to know who is accountable for these rules and processes.

Hildebrandt writes (Hildebrandt 2021, 28):

> "Law and the rule of law have been implemented by way of intricate checks and balances that safeguard the contestability of legally relevant decision making, thus preparing the ground for robust, legitimate, and binding decisions. This is how we create and sustain societal trust: not by cherishing the illusion of an ideal world where power plays no role, but by creating and sustaining countervailing powers. Simultaneously, law is about coordinating human interaction, making sure that governments treat their citizens with equal respect and concern, thus providing for legal certainty and justice. That is why it is imperative that nobody is above the law.
>
> This also goes for the architects of our computational environments, who increasingly design and engineer the space we inhabit. Computer scientists, web developers, roboticists, and software engineers must understand when and how the law applies to them, and insofar as they develop modules, systems or applications for specific use cases, they should be sensitized about how and when the law may apply. This goes for issues of privacy and data protection, cybercrime, intellectual property rights and private law liability (for example, tort), but also for issues of jurisdiction (what law applies) and international law (how national legal systems interact at the global level). It goes even more for the idea of the rule of law that should inform our understanding of the law."

In the first paragraph, she summarises what she sees as the core of the principle of the rule of law. Society is made up of human interactions and the law is the means of keeping check on

them, ensuring that people are treated with dignity and so forth. But, in order for us to trust the law, and thus each other, we need ways to keep an eye on the law and the ways that laws are developed and implemented. We need, as discussed above, rules about the rules, so that we can be sure that the rules are the right ones and are being mobilised in the right way – that way ensures societal trust.

In the second, she turns to 'computational environments' and reminds us that the rule of law must apply here too. Developers and engineers, those that create, design and maintain those spaces, have the responsibility to not only ensure that they are running according to the demands of the law, but that they can also be seen to be doing so. This issue of societal trust extends to the online environment, and people need to be able to assess the ways that they are being interacted with and be able to recognise when the laws that are intended to protect them are being upheld or even doing their job. This is crucial in a space so opaque as the internet and other computational systems where the choices and options that are available to us, and that we engage with, reveal so little of what is going on 'under the hood'. When we interact with these systems, we are often offered such a poor sense of what is really going on. For instance, what data is being gathered and used and what for, what vulnerabilities are there, what choices are being made available, and why these choices particularly, what rationales were there behind them? These questions and many more lie behind the carefully designed architectural environments we see, and as we have seen in the previous sections and chapters, there are many issues that attend to the use of recommender systems, and many legal and regulatory responsibilities that face the BBC in their deployment. In sum, then, an implication of the rule of law for the BBC's responsibilities is that the processing that follows from automated and algorithmic systems, be made as transparent and accountable as is possible, such that an individual is able assess what decisions are being made on their behalf (in this case in the form

of recommendations), to know how and when this occurs, and how it might be challenged if it is felt necessary[207].

8.2. The Second Pass: Assessing the BBC's deployment of recommenders

In turning to applying the analytic framework to the BBC's actual deployment of recommender systems, we must acknowledge a key detail that will have a significant impact upon our assessment. This is that on none of the three platforms, or indeed any platform of the BBC, is there anything like a pure algorithmic recommender system in play. Even on BBC Sounds, which was the first platform to deploy recommenders, and thus is the most comfortable with their involvement, enjoys significant editorial involvement. Interviewee I[5], suggests that the likelihood of any significant aspect of the BBC's digital provision being deployed without, at the least, a human in the loop, was very low, at least so far as matters stand. Consequently, much of what we have identified as constitutive of our four core responsibilities, the BBC is meeting comfortably. So long as the BBC has been pursuing personalisation, it has been committed to ensuring that this is not achieved of its public service principles. That is not to say that the BBC is meeting every responsibility we have noted, but many are already well attended to.

In addition, there is some overlap between the contents of these four core duties. For example, all four say something about the need to educate and inform the BBC's users, three engage respond with questions of diversity. So if an issue is tackled reasonably thoroughly in the

[207] Quick examples to highlight are responsibility #27-#30; that the BBC is responsible to ensure compliance with the UK GDPR, and to ensure that the deployment of recommender systems is within the scope of the law, fair and transparent. When we log onto the BBC iPlayer, for instance, what indications are there of these responsibilities or whether they are being met; would we know where to look to find out; what sort of responsiveness would we anticipate from the BBC in relation to these questions? Are we able to identify the developers of the iPlayer platform, as 'the architects of the computational space' in this instance; can we challenge them, prosecute them? We will see that the BBC is fairly good in this regard. Whether one is accessing iPlayer content via the web or through a third-party platform, one never has to look too hard to find some information regarding matters of privacy and data.

context of one core responsibility, there is little value in repeating the analysis, if there is nothing especially new to say.

For these reasons, this section will be brisker than the previous one.

8.2.1. To support the place of democratic deliberation

In terms of content, the BBC is doing a solid job at supporting the place of democratic deliberation. The BBC's report into its delivery of its public purposes states:

> "Our network TV channels broadcast over 22,000 hours of news and current affairs each year, with about a further 5,700 hours on our services for the devolved nations and English regions. Our network radio stations broadcast over 15,000 hours of news and current affairs each year, and our 39 local radio stations across England, three nations radio stations and Gaelic and Welsh language stations broadcast over 50,000 hours. That's over 90,000 hours of news and current affairs broadcast every year. In addition, our online services – bbc.com, the BBC News app, our local news pages – publish over 80,000 stories each year." (BBC 2023b, 3)

On top of this, the report notes that 'eight our of ten UK adults use BBC News services on average per week', the BBC is most trusted, most likely to be seen as accurate and impartial, rated the highest in 'helping me understand what is going on in the world today', and is well above its quota for this strand of content creation (*ibid.,* 3-7). In addition, the content that the BBC produces is made to meet these standards. BBC News only deploys content that is produced under the rule of the editorial guidelines (BBC 2019b) and the standard of impartiality (BBC 2021c). Similarly, content found on iPlayer or Sounds that is commissioned or bought in by the BBC is also required to meet high standards, and, if it bought in, it is acquired with the express intention of meeting its public service remit.

The BBC's news and current affairs content is intended to promote democratic deliberation, to enable 'all audiences [to] engage fully with major local, regional, national, United Kingdom and global issues and participate in the democratic process, at all levels, as active and informed citizens' (H.M.S.O. 2016b).

From this we can see that the BBC does see all users as, at root, citizens at least somewhat interested in social matters. The BBC's guidelines promote impartiality and are keen to reflect different aspects of political and social controversies. Across the board, a viewer is likely to see a range of diverse voices on a topic, even voices antagonistic. At the same time, the BBC sees its role as one of promoting social cohesion and national identity. At times of significant national moments, such as sporting events like the World Cup, or the death and funeral of the late Queen Elizabeth II, all three platforms we consider, highlight content related prominently.

While there is a comfortable difference to observe between the BBC's content and its deployment of recommender systems, it plainly puts the BBC in a good starting point. The content produced suggests it is committed to supporting the place of democratic deliberation. Coupled to this, editorial involvement in the curation process, especially in the application of 'business rules' ensures that recommended content is not at odds with the editorial guidelines and so are also intended to support the BBC's public service remit.

Let us turn to areas where the BBC could be said to fail to support democratic deliberation or where additional comment is warranted.

- There is further scope for augmenting content (recommended or not) with practical considerations that would aid and encourage people to participate with the democratic process. BBC News on the web has far more scope for this and does provide links to organisations or services when they are appropriate to the content. Where content is accessed via the News App, iPlayer or Sounds, there is currently no attempt to do this on the platform.

- One of the issues suggested was that there may be different routes to considering democratic engagement and informing people of political matters. News and current affairs content is most direct, but at times other forms of content may be more effective – storytelling, drama, for instance. The possible links across genres does not seem to have been explored. Platforms like iPlayer and Sounds, that are far more general in remit, would have significant opportunities for this.
- One of the primary metrics used for News, across the platforms, is recency. This is understandable, given the nature of news. However, learning about issues in order to deliberate is not always linear, especially if a person is entering into deliberation in a spirit of openness. In this sort of instance, recency works against supporting deliberation.

8.2.2. Our need for epistemic trust

As already suggested, there is some significant overlap between the issues raised here and those in the previous sub-section. Again, the content produced by the BBC enjoys a high trust rating, even if it is not as high as in previous years (Reuters Institute 2023). In 2023 the BBC launched BBC Verify, as a department staffed with 60 journalists, with a view to developing 'a new brand to address the growing threat of disinformation and build trust with audiences by transparently showing how BBC journalists know the information they are reporting' (BBC 2023c). One of its features that is striking and supports this core responsibility directly is that it is grounded on explicitly laying out the sources for the information that is key to understanding. Deborah Turness, CEO of BBC News writes:

> "Consumers tell us they can no longer trust that the video in their news feeds is real. Which is why we at the BBC must urgently begin to show and share the work we do behind the scenes, to check and verify information and video content before it appears

> on our platforms. And as AI weaponises and turbocharges the impact and consequences of disinformation, this work has never been more important.
>
> All day, every day, the BBC's news teams are using ever more sophisticated tools, techniques and technology to check and verify videos like the Kremlin drone footage, as well as images and information. They do this to ensure our journalism meets the rigorous editorial standards the BBC is proud to uphold." (BBC 2023d)[208]

By showing the BBC's work behind the scenes, it increases its capacity to promote trust and to support an understanding of what constitutes a trustworthy source. In addition, following the Agreement between the BBC and Government (H.M.S.O. 2016), the BBC is expected to provide links to the third-party content where appropriate. This adjustment was put in place for various reasons, but it allows the BBC to direct links to content that it considers trustworthy. The BBC's report into the delivery of its public purposes states (BBC 2023b, 11):

> "The Operating Licence requires the BBC to provide adequate links to material provided by third parties across our online pages. By doing this, the BBC provides transparency to audiences about from where information is sourced, more information to audiences so they can learn more about a topic, and attribution to the source of a story when derived from another news source. Across various big stories we have provided links to a range of third-parties, including: other media organisations, government or regulatory body websites, other organisation websites, sport coverage (across the UK) and social media."

When we recall our comments from the previous sub-section regarding in the first instance, the standards by which BBC content is created, and in the second, the strong editorial involvement,

[208] A helpful, brief podcast produced for the BBC World Service, *Over to You*, goes into more detail. (https://www.bbc.co.uk/programmes/w3ct4rp9)

we can say that many of the features of the core responsibilities are being met by the BBC currently.

8.2.3. The recognition of difference

The fourth of the BBC's Public Purposes is 'to reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions' (H.M.S.O. 2016b). Diversity is written into the responsibilities of the BBC at a fundamental level, so again, we find that the BBC is well prepared to meet this core responsibility. In terms of the formal expectations upon the BBC, as per the Operating Licence requirements, the Report into the delivery of its Public Purposes states that it has met and exceeded them. One measure included asks the question whether or not 'the BBC is effective at reflecting people like them', where over 50% considered the BBC effective and between 20%-29% ineffective (Wales scoring the least favourable) (2023b, 47).

One feature that has highlighted repeatedly is the challenge that is faced into defining what diversity is, and/or which accounts of diversity to focus on. For instance, the report just cited views diversity far more through the lens of UK regions, than it does by ethnicity, or disability, or outlook. In 2020, Tim Davies, the BBC's Director General stated:

> "Across the BBC, our focus has been on making sure that everyone - across the UK, from all backgrounds and communities - can feel that the BBC is for them. It's about being relevant to every part of society and delivering value to every household. We have a responsibility to reflect and serve all audiences." (BBC 2020)

However, an Ofcom Report from 2018 suggests that there was still work to be done on this (Cumberbatch et al., 2018; see also Barling 2022). The challenge, then, is to continue work on defining diversity, recognising how it is experienced, and how the BBC respond constructively.

Nonetheless, in respect to recommender systems, the BBC does continue to meet many of its responsibilities, thanks to the BBC's general editorial standards and the strong involvement of editors in the development of recommenders. For instance, rules regarding impartiality often dictate for contrasting voices on issues. However, a few points warrant comment:

- As noted above in sub-section 8.1.3., there remains a significant challenge for the BBC in responding to the complex nature of diversity and incorporating this into the deployment of its recommender systems. Often the calculation for diversity is grounded on diversity of brand or genre, etc., and while this offers some breadth of content, it does not recognise difference in the broader senses of engaging with the specific needs of communities, with conflicting worldviews, values and so on.
- As much as recommender platforms will on occasion reflect some moment of national identity, and as much as there is value in this – notably social cohesion, there are grounds for allowing people to opt out of this – to reflect other points of view on the matter.

8.2.4. To protect the individual's development of the human capabilities and the defence of their human rights

In some respects, this core responsibility is the most straightforward for the BBC to factor into its deployment of recommender systems, since several – those orientated around explicit rights and harms – are well codified into law. We have laws regarding data protection, defamation, under 18s, harm and offence, negative conceptions of privacy. It is plain from interviews with BBC staff that the BBC is acutely aware of these, and they are well represented in the editorial guidelines and, by consequence, they are incorporated into the BBCs design and deployment of recommender systems, typically via the BBC's 'business rules'.

However, what is much more difficult to implement are those responsibilities that follow from the development of human capabilities and creating an environment where human flourishing

is encouraged. The reason for this is largely obvious – they are very difficult to codify, formalise and operationalise. It is not at all straightforward how, for example, to optimise a system to promote a person's flourishing, to enhance their autonomy, their emotions, imagination. The difference between these sets of responsibilities is that the former are largely concerned with what sort of content ought not be surfaced, whereas the latter is orientated around what content and affordances should be produced and established in the BBCs recommenders and systems.

Again, we should note a difference between content and recommenders because in many respects the BBC does a good job at producing content that meets these responsibilities. The BBC has a long history of producing world-class, innovative, imaginative, world-expanding content across the full range of genre. So insofar as the content recommended reflects this standard, and editors will be keen to be sure that it does, contended recommended by the BBC will go far in meeting those responsibilities.

However, there remain issues, particularly found in the choice architecture of the systems, where the user's capacity to develop their autonomy and freedoms, such that they are enabled to make decisions for themselves, control their own environment, explore their own thoughts and so on, are hampered. With this in mind, the following comments are warranted since they compromise the BBC's ability to meet the demands of this core responsibility:

- Recommendations on all three platforms are not explicitly signposted. So when a user clicks on a link to read a story or watch a show, it is not always plain what prompted that link to be there – the judgement of an editor, who felt that this was an important piece of content, or an algorithm that formulated a prediction of likely relevance and interest. Often, it is true, we might not easily spot the difference, and often, we may not even care that much, but if we are to respect the autonomy of the user to make decisions on

their own behalf on account of things that they consider valuable in their self-formation as a person, we should not obscure that information.

- Recommender systems are binary in their options – they are on or off. There should be greater scope for allowing control of the recommendation process to extend to the user. If the BBC is to promote the development of human capabilities in its deployment of recommenders, it should not only personalise the delivery of content, but look to personalise the means of delivery also.

8.3. The Third Pass: What the BBC could do to further meet its core responsibilities

In this final section, we pass over the analytic framework once more, this time to highlight ways in which the BBC could adapts its practices in relation to recommender systems in order to more closely meet the core responsibilities we have identified. For each core duty, I will make a recommendation. Each must be concrete and clear.

By 'concrete' I mean they must be rooted in the actual current practices, technical systems and organisational policies of the BBC, they must be able to correspond with what the BBC is currently doing or what it is able, in principle and is realistically practicable, to do. By 'clear' I mean be capable of being understood by anyone with a basic grasp of the issues and also of a straightforward benefit, such that it ought to be obvious why, if they were implemented, they would support the BBC in fully meeting these core duties, enhanced to the degree by which the BBC had furthered the values inherent in its mission and acted responsibly in its deployment of recommender systems. I do not suggest that all these recommendations are simple or easy to implement. Aside from the first general recommendation in the next paragraph, none of them are easy. However, I strongly consider that each would enhance the capacity of the BBC to meet the core responsibilities we have been cashing out in this chapter and so are worth adopting.

However, there is one general recommendation that deserves to be highlighted and noted first. This is to continue to have significant editorial involvement at all levels in the development of these recommender systems. For each of the core duties, the BBC is already doing very well at delivering what is demanded, and a significant reason for why this is, is that much of the curation and design of these systems and the recommendations generated are filtered by editors. Their expertise is invaluable.

8.3.1. Develop the subjective sense of 'being' a citizen

Democratic deliberation is about being a citizen, possessing a number of rights and responsibilities and in having the capacity to be involved in the decision-making processes of the community. So to promote democratic deliberation is as much to promote citizenship. Dahlgren & Olsson point to the subjective dimension of citizenship, the 'what it feels like to be' a citizen; in short that to have civic agency, one must see oneself as a citizen (Dahlgren & Olsson 2008, 200f.). If the BBC's deployment of recommender systems is to be responsible, then it needs to be aiding in the development of the subjective sense of being a citizen, and certainly not hindering it.

Consequently, recommendations that are generated need to be mobilised towards this end. Where relevant, recommendations should be directed not only to content that is similar and likely to be relevant to the user, but that also promote this subjective sense of being a citizen. Content that supports this end should be weighted more heavily. For example, where content consumed reflects some social or political issue (whether directly, in the form of current affairs, news, or documentary programming, or indirectly, as in dramatic, fictional content that touches on an issue), content might be promoted that is not simply a further reflection of the issue, but that suggests means of involvement or engagement or modes of active citizenship[209].

[209] One significant qualification to this point that may complicate matters, is that care needs to be taken to respect the BBCs commitment to impartiality. Where an issue is included in content, it is possible that

Alternatively, where content concerns some sets of claims about the world – social, political, practical – recommendations may promote means of finding out for oneself.

These changes may not themselves be recommendations, in the sense of further content to be consumed. They may simply be augmentations to recommended content or further information related to the content. On the BBC News webpage, this is already a feature. As an example, in a news piece[210] about interest rates, links are included throughout the text to further, related, pieces, explainers, as well as online tools for calculating mortgage rates for oneself. It is encouraged that this practice is expanded. This is more a task for editors, journalists than it is for data scientists working on recommenders.

This could be expanded onto BBC Sounds and iPlayer. If the suggestion is not such that it can be included as a further recommendation, then it could be included in the textual presentation of the content as a web address, a link, or even a QR code. This can expand the reach of the content recommended on the platform, such that it gives further opportunities for the user to engage in active citizenship.

8.3.2. Epistemic trust and provenance – recognising a recommendation

A key issue for epistemic trust is provenance – where is this information coming from? In terms of news or factual content that might play a role in our democratic deliberations or decisions, there is value in our being able to say, to ourselves or to our interlocutors, where some piece of

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it could be a matter that some might see as partial to some political or cultural standpoint. While the original content (the programme) can overcome this obstacle by means of reflecting opposing outlooks, promoting content that encourages engagement is trickier. For example, in the case of content concerning environmental affairs, conflicting viewpoints regarding, for instance, ultra-low emission zones (ULEZ), or low traffic neighbourhoods (LTNs) can be included fairly straight-forwardly. However, when we turn to encouraging engagement, this may concentrate on one standpoint over, or to the exclusion of, the other. However, not all issues are at risk of this to the same degree. So while it is important that we are aware of the potential problems facing the implementation of my line of thinking here, we ought not consider it a dealbreaker, so to speak. There are, for example, many organisations that promote civil engagement in various fields without any obvious partisan standpoint. A brief internet search surfaced the NCVO, Red Cross, NHS, and direct involvement with Government (https://www.gov.uk/government/get-involved).

[210] https://www.bbc.co.uk/news/business-57764601

information stemmed from and to be able to establish that the source is reliable. In addition, there is value in our knowing why they chose to include this piece of information – why they thought it of value to me or our discussion to include it. This is integral to what makes both the information at stake and the person delivering it trustworthy (O'Neill 2018).

This translates to the deployment of recommender systems. One concern that is raised is that it is not always plain to the user which content has been recommended algorithmically, which using some other automated capacity (for instance, 'most read' content), and which is the consequence of editorial curation, such that all users are seeing the same content. A person may be able to form an educated guess at times, since some categories of recommended content are well signified, but at other times it is not straightforward. Clearly marking which content is the product of algorithmically generated recommendation and, where useful, an explanation of why it has been recommended, would enhance the sense of trust that a user would have in the provision of recommendations and of the BBC as a provider of them. It would also, corresponding to the fourth core duty, by informing a person of the choices in front of them more explicitly – 'do I click on this recommended content or not?' – promotes their autonomy, enabling them to make more informed choices.

8.3.3. Further research into diversity

We have commented above (8.1.3.) that diversity remains a challenge for recommenders, especially for a provider like the BBC, where diversity and inclusion are recognised widely as being so central to their responsibilities (Sørensen & Hutchinson 2018, 101). We also noted in 3.2.1. and 8.2.3., how there are different ways of approaching diversity and that these have separate and significant implications for what we are hoping to achieve (Helberger 2018, 162; Trielle & Diakopoulos 2019; see also Voakes et al., 1996). In short, we can see that diversity is multi-dimensional, but however it is we frame it, most agree that 'exposure to diversity news is a precondition for social cohesion, tolerance and peaceful coexistence of different cultures,

ideologies and viewpoints … it is deeply engrained in our understanding of what it means to live in a democratic society' (Bernstein et al., 2019, 49).

If the BBC is meet this core responsibility, it needs to maintain its work on considering how to address these different approaches to diversity, including to take further research on the matter, drawing on inter-disciplinary insights. As Bernstein et al. note, 'new measures and models of diversity are needed as current models of diversity, typically, do not capture the multidimensionality of diversity' (*ibid.,* 56). This inter-disciplinary model is already employed within the BBC, where editors and data scientists (etc.) already collaborate on the development of recommenders. This is valuable because the underlying calculations that underpin recommendation, including the metrics that are utilised, often come with normative assumptions that need to be recognised (*ibid.,* 53).

8.3.4. Develop a user space for learning

At the heart of this core responsibility, is to encourage learning and understanding. But Cilliers notes that for people to learn and understand, there needs to be the development of memory. Memory is not a solely cumulative process, however, it is selective, filtering the less significant events in favour of the more impactful. These aspects of memory are not immediate, they require time to develop, to filter out the irrelevant and to reinforce the essential components. This is a slow process and cannot be achieved instantaneously (Cilliers 2006, 215).[211]

In short, what he is concerned about is speed, and to get the best outcome in terms of memory, he proposes 'a certain slowness'. In a culture of 'fast news' and an immediate next thing, stories have less time to be developed, but also less time for people to absorb the story, to make sense

[211] Elsewhere Cilliers adds: "Memory is not a cognitive function performed by a conscious subject, but an unconscious characteristic of the brain (which is an organ, part of the body). Memory is the substrate that sets up the conditions for all the functions of the brain." (Cilliers 1998, 46)

of it, to form their own thoughts about it, and crucially, to remember it. It runs the risk of failing to be useful information and simply becoming noise.

There must be time for reflection and interpretation. If the BBC wish to take seriously this core responsibility, it should consider how to help encourage that time to reflect and interpret.

One way that this might be done is to develop a space devoted to user history that would outline a user's history so that the user can recall what content they have consumed before. Al-Cheuer-Martins notes, in her account of the machine learning workflow, that already seen items are typically filtered in the recommendation process (2021). While there are often good reasons for this – a user does not want to see repeated content ordinarily – there may be times when it would be better if this information were not filtered. A user should be able to see the journey that they have been on and be able, should they wish[212], to double back to review or reconsider content and ideas that they have previously engaged with. In such cases previously seen but relevant content could be more heavily weighted. In addition, alongside recommendations, pertinent reminders could be shown to users alongside relevant content, in the form of invitations to revisit content. There is a presumption that recommender systems concentrate on providing novelty, but revisiting content has the potential to embed issues and ideas, to reinforce them, to aid understanding and a depth of knowledge.

[212] This facility would be subject to limitations following the applications of 'business rules'. It might be appropriate for content to be removed from time to time, permanently or for a period, where there is a possibility that one or more 'business rules' were likely to be violated.

9. Conclusion – A Final Thought

To conclude, I want to return to the comments that we made in the second chapter, where we dealt with the first of our two side questions – why should we care that the BBC deploys personalised media content responsibly? To this question we offered two overlapping answers, but in reality, they boil down to one: the BBC is different.

There are lots of reasons why the BBC is different and we have made mention of many of them. It has a different, far more demanding, set of responsibilities. Other media companies are free, within certain limits, to deploy recommender systems however they want. Again, within limits, they can broadcast what they want and optimise their recommenders for the greatest number of clicks or time spent, or attention. They certainly do not need to worry about democracy.

The BBC is different in that it is, it still is, a beloved UK institution. It defines being British in a way that Sky or Netflix never will. For many people, most perhaps, it is a voice of authority, but it is also voice of friendship, of growing up, a voice opening up to us the world of sport, culture, nature. It is 'auntie'. I am haunted by the line from Sebastian Faulks quoted in chapter four – 'If nuclear war begins, the last voice of authority we will hear before Armageddon arrives is a Radio 4 announcer'. For many that could be true.

The BBC is different because it is a creature of Parliament, born of our constitution. It operates to serve the public interest, not God, mammon, nor the King. It is in this that the BBC is most different. The BBC is independent, but it is not even its own. Through Parliament it is accountable to the people of the UK, but it is more than that. It is ours. It is part of the fabric of our society.

It is because of this that we care about the responsibilities of the BBC, why we think it important that it lives up to its responsibilities, and why we think it is different.

Afterword – Reflecting on the use of Role and Legal Responsibility in my Thesis[213]

Richard Hoggart, summarising the key lessons that he felt had come out of the Pilkington Committee of 1961, said that 'good legislation for broadcasting is not restrictive but liberating. It says "Thou shalt not" much less often than it says "Thou shalt",' (Hoggart 1993, 66). Unsurprisingly, given his involvement in both, the same themes surface in Pilkington and again in his work with the Broadcasting Research Unit. 'The Public Service Idea in British Broadcasting', produced in 1985, suggested as its eighth principle of public service broadcasting, that 'guidelines for broadcasting should be designed to liberate rather than restrict' (1985, 19). Once more, this thread is echoed in the choice of instrument for the establishment of the BBC, a Royal Charter – a legal mechanism which does mark out certain sets of responsibilities for a body but that is not intended to limit its capacities or what it might do.

This tension between 'shalt' and 'shalt not' is present in the way that I have framed the notion of responsibility. Looking back to the opening chapter of the study, I set the dial forward – to concentrate on prospective models of responsibility rather than retrospective. It was important that we got straight that we were interested in what the BBCs responsibilities were going forward, not in respect to what they might have done in the past. In doing so, we examined two different sources of responsibility: legal responsibility and role responsibility. Legal responsibility, looking at responsibility as accountability, draws our attention to the

[213] This short section is responding to the request of one of my examiners to include 'A short section … at the end of the paper with reflections on whether and how the different types of responsibility mentioned at the beginning have been a helpful lens to better understand the BBC's responsibility in creating recommender systems.'

mechanisms that hold the BBC accountable for its actions. It points towards a series of laws, regulations, that are present as fixed duties regarding what the BBC must do, or not do, and are enforced by institutions and bodies that the BBCs is answerable to and may, if the BBC is to be found wanting, exert penalties, even, in the most extreme case, of denying the BBC the right to broadcast. On the other hand, we considered role responsibility. Hart pitched this as where 'a person occupies a distinctive place or office', to which is attached 'specific duties' (Hart 2008, 212). The BBC has a distinctive role in both a formal and an informal sense – formal in that it occupies a specific legal and institutional place in British society defined by Parliament, but also informal in that the BBC is 'auntie', it is the nation's primary public service broadcaster, not only legally, as marked out by OFCOM and the Communications Act, but also in terms of the place it plays in the national identity. As we noted in Chapters 4, 7 and 8, the BBC is trusted as the source of authoritative information in times of national crisis. Again, in times of national solidarity, the BBC is given a privileged place to narrate our collective feelings – as we saw in the broadcasting of the Funeral of the late Queen Elizabeth and the coronation of King Charles. The informal, role responsibilities that do not tally well to legal responsibilities are often more pervasive and more impactful, since they speak to the character of the body or person in consideration.

This distinction between role responsibility and legal responsibility is well illustrated by reference to roles that we easily recognise. As a school teacher, I was subject to various formal responsibilities, some marked out by law and regulation, some by my contract with the school. These accounted for various acts that I was prohibited from doing – for instance, deploying corporal punishment or engaging with students on social media; or that I was obligated to perform – for instance, to be in my classroom for lessons, to plan, deliver and mark lessons and student work. However, these obligations only went so far in justifying whether or not I was a responsible teacher. As a teacher, I also possessed a number of informal duties, not attached to

any law, regulation or contract, that were far more indicative or whether or not I was a responsible, or more colloquially, a good teacher. These concerned how I responded to the students in their educational but also sometimes their personal concerns, how I approached the way that I taught, the material and its delivery. Put simply, I could meet all of the formal obligations of my post, without really fulfilling the duties of my role.

Reflecting on this study, and on the relationship between these two sources of responsibility, both have played a significant and decisive role in considering how the BBC might deploy recommenders responsibly. It is also notable that both complement each other, serving functions less evident in the other. Legal responsibilities, as they are marked out in Chapter 5 and also make up the bulk of those listed in table 6.1 in Chapter 6 (p.180) appear to hold a closer relationship to the 'thou shalt not', as indicated by Hoggart[214]. This is not to suggest that legal responsibilities are all negative, telling us what we should not do. Some indicate positive duties, actions that the BBC is expected to perform. Nonetheless, they serve more as offering parameters, limits as to the BBC's actions. So even where the duty is ostensibly positive, such as to support the right to privacy (#26) or even 'impart information' as a facet of the right to freedom of expression (#25a), they are understood as defining the lower expectations, the bottom line of what the BBC ought to do – so as to say what the BBC may do no less than.

By contrast, the role, in the sense of role responsibility, of the BBC points in the opposite direction – it corresponds more naturally to Hoggart's 'thou shalt'. The tone of the public service principles is less to define parameters, or to serve as a bottom line, in the way that legal responsibilities are wont to do, and more to 'liberate' the broadcaster – to offer them a space to

[214] A possible exception here are the grand scene-setting duties contained within the BBC's Mission in Art. 5 of the Charter, that the BBC is "to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain". This point extends in a slightly lesser way to Art. 6, which outline the BBC's public purposes.

move into. The cumulative nature of the principles, as they build and expand on each other, act as a provocation for what public service broadcasting could be. To illustrate, as a teacher, I had the responsibility to be present in the classroom – that was a bottom line. But while my presence was the bottom line for my responsibility as a teacher, as someone who aspired to be a good teacher I sought to inspire and to create in my students a sense of the possibilities of the subject. I sought to be a responsible teacher in a different sense, not in the sense of the narrow duties of being a teacher, but in the wider sense of fulfilling the role that it presented.

When we look directly at the principles of public service broadcasting, as we saw in Chapter 4, we gained a clear view of the role that the public service broadcaster was expected to fulfil. When we review the responsibilities, listed as numbers 34a-f in Table 6.1[215], we note that they do not reflect a bottom line. They do not suggest legal responsibilities at all. Instead, they reflect Hoggart's 'thou shalt'; they possess an open, aspirational quality – something to be aimed towards – something that the closer is approximated the better.

This same quality is present in the core obligations of the analytic framework. They each are something aimed towards, but cannot be achieved absolutely, in a fashion that is all or nothing. They are open and aspirational. At the same time, they cannot be said to present a bottom line. As an example, one of the duties is epistemic trust. We would not consider it likely that a state could 'fulfil' epistemic trust, such that all citizens trust that the claims made by their fellow citizens are epistemically reliable. Nonetheless, we would consider that a state with greater

[215] These are:

- To promote and support democracy, to function as the 'integrator of democracy'.
- To provide a universal service, social cohesion, to foster national identity.
- To reflect, represent and serve diverse communities of the UK.
- To educate and enrich the worldview of its users.
- To provide and independent, impartial public service.
- To provide a service of excellence, high quality content and innovation.

degrees of epistemic trust is more desirable than one without – it is something to be aspired towards. The ideal can be seen as a provocation – something to direct towards. To top it all, however, if we judged that the BBC was not acting in a way that promoted epistemic trust, even if it fulfilled its legal responsibilities, there would be a feeling of dis-ease in regarding it as a responsible public service broadcaster.

In sum, reviewing the modes of responsibility we set out in the first chapter, of legal responsibility and role responsibility, we see that each serves a distinct and important role. We would not suggest that either one could give a full answer to the question of what someone or a body would be expected to do in order to be accounted for as responsible. Both sources of responsibility are in this sense complementary and support one another – one provides a set of minimum thresholds that need to be met, whereas the other offers something more aspirational, which goes some way to answer why role responsibilities lack the teeth of sanctions where the duties there have not been fulfilled.

To shift the question to which has served as the most effective and helpful lens in this study, I lean towards role responsibility. It comes closer to embodying the framing of the principles of public service broadcasting, and also plays a disproportionate place in the shaping of the analytic framework – as such its scope goes beyond those of its legal duties. In addition, as we noted in chapter 7, the BBC has been very effective and conscientious in respect to its legal responsibilities. If we are to develop strategies for how the BBC might deploy recommender systems more responsibly, there is far more to be gained from considering the responsibilities that emerge from considering its role as the nation's primary public service broadcasting. Put another way, putting Hoggart's distinction to use, the BBC is already attentive to it's 'thou shalt nots', there are greater opportunities in considering the 'thou shalts'.

Annexes:

1: A History of the BBC in Three Parts

- Very Brief History of the BBC (Pre-Internet – 1923-1990)
- Post-Internet (1990-Present)
- The Road to Personalisation (2013-Present)

2: Further Detail on Privacy and Autonomy

3: Brief Account of the Use of Recommender Systems

4: A Brief Account of the History of Ofcom

5: Cilliers' Philosophy of Slowness, Personalised Media Recommender Systems and Public Service Broadcasters

6: Further Detail on the Politics of Difference and Agonistic Philosophy

- Iris Marion Young
- Chantal Mouffe
- Charles Taylor

7: Example questionnaires used in active research

- iPlayer
- Addressing Concerns

Five of the six annexes here are made up of elements of my study that were ultimately cut because there was not enough space for them, but that I think are interesting and/or add additional value to the study. The fifth was a talk I delivered at the University of Birmingham School Law Conference in 2021. It has been incorporated into a short element in chapter eight

of the thesis, but I think there is something interesting and perhaps even valuable there. I would have liked to have the time to polish these segments more, but unfortunately they remain rough around the edges and in need of a further edit.

Annex 1: A History of the BBC in Three Parts

Part 1: Very Brief History – Pre-Internet (1922-1990)

In 1922, the British Broadcasting Company[216] was established. It was intended to ensure at least two things. As a consortium of British radio manufacturers, it was an effort to avoid any one company establishing a monopoly over this new technology. By limiting matters to a single entity, it was seeking to avoid the American experience, described as a 'chaos of the ether' (Briggs 1985, 19). This emergent technology was seen as too important, both in terms of military and civilian uses, to be left unattended, and so it was brought under the oversight of the Postmaster General and ensure a limit on its claim on the airwaves (Briggs, 1985, 27; Crisell 1997, 11; Briggs & Burke 2009, 151f.).

The company straight away faced opposition from the Press, since they viewed it as a direct threat – why would someone wait for a paper when they could hear it straight away from the wireless? Consequently, the company was prohibited from developing its own news agency and would receive and then read out news bulletins prepared by the Press for which the company would pay royalties (Briggs 1995, I: 120-121). The arrangement was limited to six months, so when the Sykes Committee was called in 1923, the question was returned to as were matters of the license and how far the Postmaster General should intervene in the case of 'undesirable content' or material that is not in the public interest.

From the off, the company had, despite the obstacles (Briggs 1995, I: xxx; Hendy 2022, xxx), made an impressive start under the leadership of John Reith, its managing director, who was already beginning to perceive the potential of broadcasting as extending well beyond simple entertainment. He began to lay out these thoughts – many collected in a manifesto-like book, *Broadcasting Over Britain* (Reith 1924), which reads as a first stab at articulating what public

[216] Hereafter, I will refer to the British Broadcasting Company as 'the company'. I will only use 'BBC' when referring to the Corporation.

service broadcasting might mean. I will develop these thoughts below (section 3.2.1), but in short, Reith saw broadcasting as a means of democratisation and enculturation in a clearly Arnoldian fashion (Arnold 1869), bounding the nation together and edifying all.

The success of the company coupled with Reith's vision for the BBC operating under neither commercial nor governmental control found considerable agreement. Following the Crawford Committee of 1926, it was decided that the appropriate instrument for establishing such an organisation would be a Royal Charter[217] rather than special statute, which would make it a 'creature of Parliament'. A key feature of the new Charter was that the BBC was given leave to collect and report on news for itself, although it still took several years for the BBC to fully establish its own news department (*ibid.,* I: 328). While it was some time longer before the BBC was allowed the opportunity to wade more fully into matters of controversy (Briggs II: 121), crisis soon came with the General Strike of 1926. Churchill in particular was keen to co-opt the newly incorporated BBC as an organ of government, but Reith resisted, asserting independence – attempting to position the BBC as 'apolitical' (*ibid.,* I: 330-335). It was not until the Ullswater Committee of 1935, that the BBC was finally free to engage in political controversy (*ibid*, II: 450).

The interwar years saw mostly consolidation of the BBC's place as the national broadcaster. The Selsdon Committee also in 1935 opened the BBC up to television. Broadcasts tentatively began from Alexandria Palace in 1936, however, with the outbreak of war, these ceased again in September 1939 (*ibid.,* II: 550). The Hankey Committee in 1943 saw to resume these broadcasts at the first opportunity, which were from June 1946 (*ibid.,* IV: 181).

[217] Defined as: A Royal Charter is an instrument of incorporation, granted by The Queen, which confers independent legal personality on an organisation and defines its objectives, constitution and powers to govern its own affairs (https://privycouncil.independent.gov.uk/royal-charters/). The Committee actually proposed that the BBC was to be established by Commission, but the Postmaster-General proposed a Charter.

The Beveridge Committee in 1950 reflected a different mood. Committee members were deeply impressed with the 'zip and zest' of American media and were seriously doubtful about the BBC's monopoly and were considering opening broadcasting up to competition. On top of this, the BBC was facing challenges from European and Pirate radio and the arguments founded on spectrum scarcity were no longer holding water. In response, BBC Director General Haley argued that 'under competition' the BBC's responsibilities 'would be blurred or destroyed' (*ibid.*, IV: 296). The Committee decided to maintain the BBC's monopoly but the new Conservative government ultimately decided, after some deliberation, to allow commercial television under the Independent Television Authority (ITA).

While commercial television may have had 'zip and zest', there were also questions as to how much quality was being provided by the new channels. Roland Gillett, programme controller at Associated-Rediffusion, one of the three ITA franchises, was keen to observe that 'the public likes girls, wrestling, bright musicals, quiz shows and real life drama. … what the public wants, the public gets'. (Sendall 1982: 328). This was the backdrop to the Pilkington Committee of 1962. This committee was notable perhaps less for the concrete outcomes that followed, although there were some key developments, not least a third television channel, granted to the BBC, but for the degree of discussion that was had about the nature of public service broadcasting and the BBC's place in that. The report recognised that 'broadcasting … was in a constant and sensitive relationship with the moral condition of society' (HMSO 1962, 16, para. 42). Committee member, Richard Hoggart suggested that the Report resembled a study of 'social philosophy' more than scientific research (Hoggart 1993, 62) and that it was engaged with wrestling with the question of the 'Purposes of Broadcasting' (Chapter 3 of the Report). We will discuss these below in relation to public service broadcasting (Section 3.2.2). Pilkington also recommended that the BBC's local radio provision should be expanded leading to eight new local stations. However, in 1970 the new Conservative government passed the Sound Broadcasting Act in 1972, reframing the ITA as the IBA, the Independent Broadcasting Authority,

and authorising them to establish 60 new commercial local radio stations, although only 19 were actually formed at the time. The BBC's monopoly in radio was brought to a close.

The Annan Committee of 1977 was concerned with what it saw as a 'comfortable duopoly' – an apparent rivalry between the BBC and IBA that seemed more important than the service delivered (HMSO 1977, 29, para. 4.2). By contrast, where they may once have existed a broad consensus of taste and opinion, the committee considered that from the sixties onwards, this broke down, society becoming increasingly fragmented; whether north or south, young or old, middle or working class and so on (*ibid.,* 144, para. 2.26-2.28). In response to this, Annan proposed four principles, judged to establish 'foundations for the future of broadcasting': flexibility, diversity, editorial independence, and accountability. Practical outcomes were reflected in the recommendation for a fourth channel, as well as a Welsh language channel, as well as the Broadcasting Complaints Commission[218].

Relations between the BBC and the Conservative government of Margaret Thatcher were often considered to be strained. On the one hand, the BBC's position and privileged stature seemed at odds with the spirit of competition at the heart of conservative ideology. On the other, from its inception the BBC had been judged to be unduly critical of Conservative positions – recent examples, from the early 80s, were its coverage of Northern Ireland and the Falklands Conflict

[218] Channel 4 and S4C, as they were to be named, did not come to pass until the Broadcasting Act 1981. Channel 4 was to be governed by the IBA and to draw its funding through advertising. However, instead of being responsible for its own content production, Channel 4 would be a commissioner, commissioning content from various sources, including other IBA franchises, ITN and other independent providers (Hobson 2008). It was expressly intended to extend the range of programming. Jeremy Issacs, Channel 4's first Chief Executive stated:

> "We want a fourth channel which extends the choice available to viewers; which extends the range of ITV's which caters for substantial minorities presently neglected; which builds in to its actuality programme a complete spectrum of political attitude and programming, with broad educational purposes; which encourages worthwhile independent production; which allows the larger regional ITV companies to show us what their programme makers can do. We want a fourth channel that everyone will watch some of the time and no-one will watch all of the time. We want a fourth channel that will, somehow be different" (*ibid.*, 8).

(Brittan 1987, 101). This is often considered the backdrop to the Peacock Report of 1986, especially since its primary occupation was a review of the BBCs funding model. Although, when judged by the outcomes, it is open to some doubt – especially when seen in the light of increased competition of the growth in technological possibilities (HMSO 1986, 124, para. 543-545). The concrete outcomes of Peacock are sometimes regarded as marginal. Collins reports that few of its recommendations were adopted (Collins 2008, 146). The primary focus of the report, reviewing the finances of the BBC, was unfulfilled – the license fee was left as it was; it was felt that opening up the BBC to advertising would negatively impact the finances of ITV channels (HMSO 1986, 124, para. 541(vi)). One of the few concrete developments of Peacock for the BBC was that the corporation was to make fewer programmes in-house and to open itself to commissioning content from other providers. Despite all this, the report might still be considered pivotal in the development of broadcasting in the UK, and the history of the BBC, in the impact that it had on the underlying presumptions of broadcasting, especially the degree to which consumer sovereignty came to be prioritised in future decisions. In its conclusions the Peacock Report stated:

> "Our own conclusion is that British broadcasting should move towards a sophisticated market system based on consumer sovereignty. That is a system which recognises that viewers and listeners are the best ultimate judges of their own interests, which they can best satisfy if they have the option of purchasing the broadcasting services they require from as many alternative sources of supply as possible." (*ibid.,* 133, para. 592)

The privileging of the consumer and choice shaped broadcasting policies to the present, shaping the nature of the Broadcasting Act 1990 and the Communications Act of 2003.

The rise of satellite and cable providers gave the backdrop to the Broadcasting Act. These technologies had first arrived in the UK in 1981 but by the end of the decade the market had expanded widely. Deregulating the cable and satellite industries was seen as a means of

destabilising the duopoly of BBC and ITV further and expanding consumer choice. While the IBA was abolished and was replaced by the Radio Authority and the Independent Television Commission, which regulated all non-BBC television broadcasting, the BBC was largely left alone. The only major exception was that it was required like ITV, Channel 4 and the future Channel 5, to source not less than 25% of its programmes from independent providers (Crisell 1997, 229).

The 1990s, under Sir John Birt, saw the BBC internalise the market imperatives at the heart of Peacock. Between 1986 and 1990, it shed 7,000 jobs and introduced expectations that producers would resource content according to the best deal possible. The emphasis shifted towards the individual – calculations of public interest[219] were to be understood as aggregating individual preferences. As such, the direction of travel was towards catering to the expansion of choice for the individual (Curran & Seaton 2010, 199)[220]. Section xxx below describes in detail the developments that followed from the Broadcasting Acts 1990 and the Communications Act of 2003[221].

[219] The BBC had, from its inception, been framed as to serve the public interest, although it had appeared in a variety of formulations in the history of its Charters. In 1926, it was presented as 'the nation's interest'. In 1981, it was the 'interests of the people'. It was only later that the term gained an addition pointed-ness when it was presented alongside a similar-sounding 'public value'. For more discussion, see section 4.2.1.1.

[220] Seaton describes how the shifts throughout the 1980s and into the 1990s brought negative, as well as some positive change. A major negative factor was that it forced 'savage' cuts onto the BBC, primarily through resisting any increase to the license fee in an era when revenues were not rising (people were no longer buying new television sets and so purchasing licenses) but that production costs were rising considerably (Curran & Seaton 2010, 208). She also describes how there was a brutal reassessment of staffing at the BBC. This had a dual effect. There was a shift of power, from a producer's programme-led hierarchy to a management-led structure, but opportunities in broadcasting tended not to come from managers, but from production staff (*ibid.,* 213). However, despite this, she concludes that all these changes may have, in the end, and not for the reasons envisaged, ensured the long-term resilience and survival of the BBC as it travelled towards the new millennium – it had become a leaner and more flexible institution (*ibid*., 221-223).

[221] In short, the 1996 Act expanded broadcasting provision into digital terrestrial television broadcasting and regulated digital terrestrial sound broadcasting, enabling the expansion of digital radio services, which until this point had been experimental. Alongside the five established national radio stations were added Radio 6, Radio 1Extra, BBC Asian Network as well as a number of additional and short term services. On television, several digital channels were added: BBC News aired from 1997. BBC Parliament, BBC Choice and BBC Knowledge followed in 1998 and 1999 respectively, the latter being rebranded as

When we seek to extract what the key headlines are in the history of the BBC, in the processes that led it to being the corporation we see today, we see certain themes at the fore. They have ebbed and flowed, but even in the 1980s and 1990s, when, inspired by the politics of the time, individualism and consumer sovereignty were given greater priority and even championed, the public service ethos that was at the heart of Reith's vision was never properly dismissed. First, we see, from Reith to the present, a clear association between the BBC and the principles of public service and public interest. The BBC is not operated on behalf of any set of particular interests, whether governmental or commercial, and the principle of impartiality in this regard is seen, time and again, as sacrosanct. As an example, the new Director General, Tim Davie has made ensuring the impartiality of the BBC his defining motif[222] on account of it enabling a diversity of views, facilitating a culture of discussion and opening up the BBC to great representation and appeal. The Pilkington Committee, which we will describe in more detail below was concerned with purpose of broadcasting and considered that amongst other things, broadcasting should not 'hesitate to reflect the quarrel of this society with itself' (Hoggart 1993, 66). In other words, broadcasting should encourage its viewers to engage with other outlooks in order to widen their own. Annan draws our attention to diversity – that our society is not a single, homogenous whole, but is made up of many, overlapping communities, with a great range of sometimes conflicting principles in play. Public service broadcasting needs to both reflect but also speak to those communities. The Peacock Committee often gets a bad reputation when it comes to defending the citizenship dimensions of public service broadcasting. Perhaps some of this is deserved, but it is worth recalling that the committee did not reject public service broadcasting principles, but rather argued that they could best be met through motivating

BBC Four in 2002. BBC Three, an attempt to attract more younger viewers, went on air in 2003 – both Three and Four sharing signal space with CBBC and CBeebies, which went on air at the same time. The BBC also launched a channel in the USA, BBC America, marking the first real BBC commercial venture.

[222] https://downloads.bbc.co.uk/aboutthebbc/reports/reports/impartiality-and-editorial-standards-action-plan.pdf

consumer sovereignty and alternative funding structures. (Of course, we could argue whether they were correct in this). In addition, Peacock, following Annan, was keen to promote accountability within the BBC and broadcasting in general – which is important since it operates, amongst other things, to ensure that the public, which is being served, is able to speak back to the broadcaster and correct errors or imbalances and forces the broadcaster to think more thoroughly about how their action and content will speak to the communities it serves.

Part 2: Post-Internet (1990-Present)

A development that took shape that has changed the face of broadcasting was the arrival of the internet. Because there is so much that can be said, I will hold myself strictly to considering the BBC's utilisation of the internet and resist the temptation to note wider developments.

It is worth observing at the outset that the BBC has been mandated to conduct research into technologies that might enable it to further its mission and the fulfilment of its purposes. This requirement was found in the first BBC Charter from 1927 (Para. 3(p)) and is in the current Charter (Section 15). Following Tim Berners-Lee's invention of the World Wide Web in 1989, and the first browser to explore that space in 1990, the BBC first publicly engaged with the internet in 1994 with the BBC Networking Club (www.bbcnc.co.uk), essentially a series of bulletin boards where users could receive information or be asked for help relating to BBC content[223] [224]. Because it was felt that selling a dial-up service when others were also in the process of establishing commercial services on the internet, it was closed down[225]. Beginning to realise the potential of the internet led to Sir John Birt to direct resources towards developing a web

[223] https://www.bbc.com/historyofthebbc/anniversaries/april/bbc-networking-club/
[224] https://web.archive.org/web/19950301190227/http://www.bbcnc.org.uk/bbcnc/index.html
[225] https://www.bbc.com/historyofthebbc/research/dreams-data-downloads/

presence for the BBC. BBC Online went online in December 1997[226]. By 1998, it was reported in the Eight Report of the Select Committee of Culture, Media and Sport how well the BBC's efforts were being received[227].

By 2000, the internet was already a significant part of the BBC's offering. BBC Online had the highest reach of any content site in Europe (Annual Report 2000/2001, p. 9) and in 2001 had 120.6m page impressions, an all-time-high representing 29% growth over the year (*ibid.,* 21). The internet as a means of content distribution was being talked of as early as 2000, albeit only in terms of radio (this being the same year that broadband connections were being launched in the UK, so the possibility of streaming television remained beyond the reach of normal technological expectations). National stations, like Radio Four, Five Live and Radio One, were already streaming over the internet. It was being proposed to add to this roster by adding five new national stations.

The utilisation of the internet was increasingly being seen important. All internet services were to be rebranded as BBCi in November 2001, and at the heart of this rebranding was the belief that through the internet, the BBC could develop itself as an interactive service. Over the coming years, there was to be notable growth. This rebranding also saw the expansion of 'red button' services, initially a replacement of CEEFAX, billed as BBC Text, where, through a red button on television remote controls, viewers could receive additional or even alternative broadcasts on selected content – typically sporting events. Even more significant – especially for our story – was the introduction in 2003 of the BBC Radio Player; a catch-up service, featuring many of the most listened shows, for up to 7 days following transmission.

[226] A variety of screen shots from 95-99 can be found at: https://www.versionmuseum.com/history-of/bbc-website
[227] https://publications.parliament.uk/pa/cm199798/cmselect/cmcumeds/1090/109006.htm (Especially Para. 29-31)

These developments enabled the BBC to declare in 2004 that they were a 'tri-media organisation' – they were no longer bound solely to television and radio, but that they were as much an internet organisation (Annual Report 2003/2004). The BBC would 'use the internet to complement the full range of the BBC's broadcast output (p. 41). This was reinforced by the recommendations delivered by the Graf Report (Report of the Independent Review of BBC Online, 2004). In section 8, concerning the purposes of BBC Online, the report stated that 'BBC Online exists to provide online services that are in the public interest' and as such are to provide degrees of value that are beyond that offered by commercial markets. Chief among these were social values – that the BBC's online offering should sustain and promote democratic and educational values, as well as support social 'connectedness', shared experiences and community-based cohesion and interaction (p.70)[228]

[228] The Graf Report, written by Philip Graf, previously the chief executive of Trinity-Mirror, was commissioned to examine whether the BBC, in its development of BBC Online was acting in accordance with the terms by which it was approved by government, to assess its market impact, to consider the possible future role of BBC Online (DCMS 2004, 3).

The Graf Report highlighted four categories of value:

- **Social** - sustaining and promoting core social values, through, for example, re-enforcing:
    - Democratic values, processes and institutions
    - Educational opportunities and experiences
    - Social 'connectedness'; supporting the BBC's aim to provide 'something for everyone' (reach all licence fee payers) and creating a shared experience
    - Community-based (e.g. regional; political) cohesion and interaction; helping to connect diverse UK communities
- **New media** - complementing and promoting the BBC's broadcast TV and radio services…
- **Economic** - addressing 'narrow' economic market failures…
- **Sector-wide -** playing a role in the development of the internet as a valuable and attractive medium for all… helping users to understand and enjoy the full potential of the internet… (*ibid.,* 70ff.)

The report recommended that greater differentiation was maintained between BBC content and commercial content. Some content was insufficiently distinctive as public service content, for instance, games sites, fantasy football. The BBC should 'prioritise news, current affairs, information of value to the citizen and education. Within these areas, it should prioritise innovative, rich, interactive content' (*ibid.,* 11). It recommended that 25% of its non-news content ought to be outsourced, to reduce costs and aid innovation (*ibid.*, 13).

The 2004/2005 Annual Report reflected these recommendations and presented 'interactivity' as an 'increasingly important' component in fulfilling them (p.38f.). Furthermore, this interactivity would serve to develop a deeper relationship between the Corporation and its users, meeting individuals' needs more directly. This Report is the first to explicitly mention 'personalisation', even if this is limited to tailoring content to geographic locations. The most significant development is the trial of the 'Interactive Media Player', the first iteration of the iPlayer, which included 190 hours of television and 310 hours of radio. These trials continued through 2006, with the name being streamlined to the iPlayer, with public value tests put in place as well as a market impact assessment.

The iPlayer was officially launched in December 2007, just before Christmas, and by March the following year, the BBC had gathered over 17 million monthly downloads and streams. Alongside the Radio Player, which was still gathering steam, there were more plans to extend these services; to make more television available through the system and to make the iPlayer fully integrated with the radio service. These developments also reflect the recognition that was emerging that increasing amounts of television consumption was non-linear. The reframing of television (and radio) consumption by individuals taking control of how they engaged with media content was being viewed as a mode of personalisation (Annual Report 2007/2008, p.31). BBCi, representing the rest of the BBC's online content, was continuing to grow. In 2007, there were 14 million 'red button pressers' in the UK, and bbc.co.uk was now having over 3 billion page impressions per month.

Between 2008 and 2013, there were few significant changes – adjustments in the BBCs approach to personalisation were more incremental. Customisation was beginning to make appearances in specific online spaces, such as services such as My CBBC, Sport or weather, delivering limited degrees of personalisation. There was an increase in the BBCs push to developing podcasts. In the year since the BBC started producing devoted podcasts (2007),

there had been 7.6 million podcast downloads, and the BBC was keen to continue to build a varied portfolio. By 2012, this had exploded, in the time that the BBC had been concentrating on podcasts, there had been over 1.2 billion downloads. These podcasts had become embedded in the Radio Player, but in turn, radio services were also being integrated into iPlayer, which was also seeing continued growth – over the period from 2011-2012 there had been nearly 2 billion streams, with the highest (up to 2012) monthly figure being recorded of 191.7 million streams in February on that year.

Other developments during this period include a relaunch of BBC News, which made far greater use of integrated video and images. Short videos were to become one of the primary content types and subject to increasing personalisation in their own right within the bbc.co.uk domain. The role of mobile technologies were also being recognised and between September 2012 and January 2013 the BBC launched mobile app versions of their BBC online projects: iPlayer; Radio iPlayer, which by summer 2013 had been downloaded 1.8 million times; BBC Sports, downloaded 1.4 million times. One area that saw some withdrawal was the role of the 'red button services'. In 2010/2011 these were still seen as a primary mode of interaction, but by 2013 these were being reduced and rolled back. While these services continue to the present day, they ceased to be a key part of the BBCs drive to push to interactive and personalised technologies.

2013 saw the arrival of personalisation as a key motif, eclipsing interactivity, in the BBCs development of its future strategy[229]. The Annual Report of 2012/2013, and all the previous reports, saw no mention of personalisation. From 2013/2014 onwards, it played a greater and more significant role in its plans for development. We have already given some indication of why, but the headline reasons given here are to enhance people's personal connection with the

[229] More detail on the rationale for pursuing personalisation is to be found in section xxxx

BBC, to develop content for 'people like me', and to appeal to younger audiences more accustomed to non-linear and personalised broadcasting streams.

In the early years of personalisation at the BBC, personalisation was comprised primarily of a two simpler models; geographic selection and manual selection of fields by users. The former had been utilised as early as 2005, by tailoring content according to postcode location. This was, and remains, effective in respect to local news content and weather reporting, for example. The second model reflects users' explicitly expressing sets of preferences as to what they would like to see – e.g. politics, sports, entertainment, and so on. Examples of this would be users selecting specific teams or sports on the BBC Sport app or personalising the 'My News' section of the BBC News app. In time, these methods were added to by significantly more sophisticated, machine-driven models. In the next section we will specifically comment on these models that revolutionised content personalisation by the BBC. In sum, while content-based recommenders were initially used extensively, these were added to by collaborative filtering models. These are properly machine-driven models, which will continue to improve as they gather more data about the system content and the user.

The iPlayer was judged to be central to building a personalised BBC (Annual Report 2013/2014, p.55). Securing user sign-in data was key. This could be achieved under the auspices of assuring license fee compliancy, but it enabled more specific collation of user data that could be analysed to effect personalisation – to provide a 'personalised, internet-first service' (Annual Report 2014/2015, p. 62). It also facilitated a continuity in service. By signing-in, a user's activity could be tracked from time to time, such that a programme paused and left at one time could be picked up later at the same point, and also place to place and even device to device.

Ex-BBC Director General, Tony Hall, in his introduction to the 2016/2017 Annual Report stated that 'personalisation would offer the best of public service broadcasting, but only if they sign in' (p. 10). At that time there were 4 million signed in users, but the goal was to make that 20

million. (By the 2019/2020 Report, the figure of signed-in users to iPlayer had reached 9.1 million (p.25)). By increasing the number of sign-ins, it offered the technological benefit in steadily improving the recommendations that might be made, and thus improving the relationship that person has with the BBC, but it also provided key insights as to the sorts of content that the user might like, informing future commissioning choices.

In the 2019/2020 Report, we find the drive towards increasing the rate of sign-ins remaining a priority. In discussing the BBC's strategy, it states:

> "We will continue to drive sign-in towards 100% across BBC Online. Sign-in is a key enabler of the BBC portfolio, giving us the data we need to make our online products feel like they are part of a single, consistent and personalised whole. We will also take a big step forward on making the BBC more personal and more engaging. This means improved recommendations across our online products that surface new programmes and stories, based not just on activity on one app but on multiple apps. We will continue to improve the promotion of BBC content and services across platforms to make linear and on-demand products work together.
>
> ... Looking ahead, the priority will be to pull all possible levers to improve and grow iPlayer, including content availability and exclusivity, product developments, marketing and distribution. That will mean more programmes available for longer, more developed personalisation and curation to make it even easier for each person to discover what's relevant to them, and a continually evolving user experience."

One significant feature of this vision is the bringing together of the various BBC apps and services and viewing them as a common pool of data that would contribute amongst each other towards the continued personalisation. With this in mind, it is plain why promoting sign-in across the board would be seen as an imperative.

There has also been a widening in the services that have seen some degree of personalisation since 2013. Playlister, a service introduced in 2013, was a means of tagging songs that a user might discover using BBC Online and building up a personal playlist. In 2015, the BBC's online educational service Bitesize established in 1999, would encourage signing in, entering information about the educational status, which would enable 'personalised content, progression and reward'. This would be personalised to focus on specific subjects with a view to improve levels of attainment, refining areas of weakness. In 2019, 75% of secondary age students used Bitesize. The BBC's NHS Tracker is also personalised, by postcode and local NHS Trust data.

The promotion of podcasts continued following 2012. In the summer of 2018, the BBC trialled a new app, BBC Sounds, which went live in October of that year. In essence it was the rebranding of the BBC Radio iPlayer, which provided access to the BBCs radio provision as well as catch-up facilities in the same sort of way as the standard iPlayer, and a hub for the BBCs podcast content. It proved very successful, gaining 2 million downloads within its first year. It was billed as 'a brand new audio product bringing together our live and on demand radio, music and podcasts into a single personalised product'. Like other BBC projects that are personalised, while it has been increasingly developing its capacity to generate machine-driven recommendations, it continues to make use of editorial curation and aims to maintain listener 'choice and control'. Nonetheless, utilising data sign-ins from their BBC account, it sets itself the goal of steadily improving the recommendations it offers and continuing to expand the horizons of its listeners.

Part 3: The Road to Personalisation (2013-Present)

Personalisation has been a target for the BBC for many years, but then, the BBC has had a mandate to innovate technologically both behind the scenes and in relation to user engagement

since the 1927 Charter, which states the Corporation should 'carry out research and development work in relation to any technology relevant' (H.M.S.O. 1927, Para. *P*). Section 15 of the current Charter states that the BBC has a duty to 'promote technological innovation and maintain a leading role in research and development' (H.M.S.O. 2016b). In recent years, the BBC has been at the forefront of much new technology and platforms – from 1999 onwards some of the most prominent examples include BBCi, Red Button Services and iPlayer. While not, at that time, utilising the sorts of technologies that are the object of this study, they show the direction of travel of the technological innovation undertaken by the BBC - they increase the extent by which BBC services can be tailored and accessed by the individual with the individual's own priorities at the forefront.

According to the BBC Annual Reports, 2013 appears to mark the shift by which the BBC starts to name personalisation as a goal. At several places in the report of that year, it points towards increasing personalisation, even, where there has not always been a clear idea of how to achieve it[230]. To illustrate this drive, one need only look at (ex-Director General) Tony Hall's speech at the launch of the Annual Plan for 2017/18, on which the future and the purpose of the BBC is almost wholly hung on personalisation. Cherry picking from that speech, Hall states (Hall 2017):

> "Our future success will depend [*on*] personalisation - creating a BBC that is uniquely tailored to you… when we look to reinventing ourselves for the future, personalisation is so fundamental. It's at the core of so many of the priorities we have set ourselves… A

[230] The 2013 BBC Annual Report reads (BBC 2013, 57):

> "Technology can also help make channels work better. Audiences will be able to go back in time – through the backwards programme guide on YouView, for example, or into the future to create their own schedule from programmes we release early. We will take this even further with channels that are more personal and know more about what you like, what your friends like, and what you might want to watch next."

> personalised BBC will be our greatest leap since iPlayer, and that's why we have put it right at the top of our agenda."

This positioning of personalisation as central to the BBC's mission moving forward has been echoed in other places also. The Institute for Innovation and Public Purpose, for instance, consider the role of dynamic public value for the BBC. Key to this assessment is the impact it has on individuals[231]. In the shift from mass media represented by the classic model of *broad*casting to 'today's online media ecosystem', attention is moved from reaching the widest possible audience to appealing to smaller, more specific groups, who have more specific interests. Younger audiences are more used to content on demand from services such as YouTube, which use algorithmically driven recommender systems to personalise content. Furthermore, personalised content stands to encourage 'individual value' to the user. They say (*ibid.*):

> "But public value for the individual can also be considered with the more intangible values of "usefulness", "trust" and "love" — embedded in the nature of the relationship individuals have with the BBC beyond their consumption of programmes. This reaches into people's values, their personal experiences, and their sense of connection with their community and nation as a whole.

For all this, however, there remains a gap between the vision of personalisation and the means by which it might be achieved. Reviewing Tony Hall's rousing speech from 2017, it doesn't take much analysis to see the distance between concept and application. He said:

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[231] They say (Mazzucato et al. 2020, 25):

> "Thus, to create individual value it is not sufficient to produce great content that targets all audiences — connecting to individuals on a personal level is what deepens relationships. While in a linear world, reach and access were facilitated by a prominent position of BBC's channels on the electronic programme guides (EPGs), this is no longer the case in today's online media ecosystem. To maintain individual value, the BBC must then focus on strengthening the direct relationship with its audience as users find a wider range of entry points to a relationship with the BBC via different intermediaries."

> "We have always been pioneers. Now we need to be pioneers of personalisation. But we're not trying to sell anyone anything, so we need to do it in a very public service way. To create the algorithm for public service content. Not telling audiences 'what customers like you bought', but using our powers of curation to serve them what they might like and they need to know." (Hall 2017)

It has been observed there is no 'public service algorithm' (C[1]). Saying things like this is easy, delivering them is another matter entirely and the BBC has struggled to implement personalisation in an effective, consistent manner. Even in 2022, the National Audit Office concluded that, "the BBC has started to develop plans for how it could personalise some of its individual digital products and services, we have yet to see evidence that it has begun work on pulling together a comprehensive strategy for personalisation across the organisation" (NAO 2020, 8)[232].

[232] The Nation Audit Report continues:

> "1.13 To enable its digital services to become a valued daily habit, the BBC states that it has a strategic focus on personalisation across the organisation. However, its overall personalisation strategy is still evolving, as it has been for several years. In November 2020, an internal BBC report highlighted that over the past nine years, it had made repeated announcements about what personalisation means for the BBC. It had, for example, stated that personalised recommendations for iPlayer and homepage were in development. However, it had not supported these statements with coordinated action. The review also found that, although some progress on personalisation had been made, more could have been done to drive rigour and pace of progress. While the BBC has made progress in personalisation for individual products, and account holders can select whether to have a personalised experience or not within their BBC account settings, it has not yet developed a full strategy for this. The BBC was due to start developing its personalisation strategy in July 2021, following completion of work on its sign-in strategy, but by November 2022 we had yet to see evidence that the BBC has started this work.
>
> "1.14 The BBC regards sign-in, whereby users register for and use a BBC account to access digital services, as key to providing its users with a more personalised experience. Through sign-in, the BBC can collect personal information about its users to understand their preferences. When used alongside recommendation algorithms, this should provide a user experience tailored to their individual preferences. The BBC does not believe that it is possible to compete digitally without knowing users' viewing habits. In September 2021, it produced a sign-in strategy, with a target for 72% of digital product views to come from signed-in users by 2023. It also has an overall goal of having 20.2 million weekly average signed-in users by 2022, growing to 23.5 million users by 2023. BBC Online's signed-in accounts increased from 14.6 million on average per week in 2019-20 to 18.1 million in 2021-22 (Figure 4). This has continued to grow and reached 19.6 million signed-in accounts in June 2022. The BBC has achieved this through a mix

While some teams were quick to respond to Lord Hall's 'call to action', the response was not 'joined up' (C[1])[233]. Nonetheless, despite all this, there has been an enthusiasm within a growing number of teams to engage with coordinated efforts to personalise content within the BBC and this has resulted in a variety of projects. Furthermore, there is a clear sense of perceived value to the principle that personalisation is key to the future of the BBC and that it will continue to produce greater value, both for the user and for the corporation as a whole.

In the first place, there is evidence that this is simply the direction of travel. Younger generations are turning towards and expecting personalised recommended content. A study conducted by the *Independent Research Fund* in Denmark found that over 20% of Generation Z respondents (those born approximately after 1997) considered that it would be acceptable for algorithms alone to determine the content of their news. This rose to over 90% for those who thought a combination of algorithm and human would be ideal. Fewer than 10% thought that humans alone should have this responsibility. This contrasts significantly with 'Boomer' respondents (born between 1946-1964). Less than 5% trusted algorithms alone to recommend news content, and well over 40% thought it should be humans alone (cited in C[1]; See also comments made in section 2.x.x.; OFCOM 2023b)[234].

> of mandatory sign-in for the iPlayer and Sounds apps and voluntary sign-in to services including its weather and homepage websites." (NAO 2022, 20)

[233] Although there has certainly been progress since, C[1] commented in 2020:

> "The BBC has done little to shape or scope its personalisation efforts, other than creating and deploying *Datalab*. And despite heroic work there in delivering our first real personalisation, uprating the debate and getting engagement, *Datalab* in itself has had a hard time battling to make impact with editorial teams because there has been no compulsion and not enough perceived value, kudos, ownership or imperative for them to really engage with the issue."

[234] Furthermore, judging by Ofcom's *Internet Futures* report (2021), all this corresponds with the direction of travel taken by the technology that surrounds the internet itself. Where the internet as it originally manifested, Internet 1.0, was basically a source of content. This was replaced by Web 2.0, where users were increasingly able to add their own content and engage with others'. The report proposes that we are in the process of moving to a Web 3.0, what is sometimes described as the 'semantic web' (Nath & Iswary 2015, 1-2). At this point, amongst other suggested outcomes, machines are able to order and 'understand' the content in such a way that it can reliably personalise material for individual users.

Personalisation yields better results in the sense that it improves engagement. As we noted in our introduction, commercial operators have been rapidly introducing personalisation services, including recommender systems, for the simple reason that they lead to a greater connection with customers. Monzer et al. (2020) consider how users relate to news personalisation, how they see their role in the process, and what benefits or concerns they perceive. They suggest that reciprocal journalism could be aided by personalisation – it 'could contribute to this re-shaping and intensifying of the relationship between news media and their audiences' (Monzer et al. 2020, 1145). They do add, however, that for users to fully engage with the personalisation process such that the full benefits of this proposed reciprocal model should be realised, they must understand how personalisation works, and point to a number of studies that suggest that this is not the case (*ibid.,*).

Later in the same paper, the authors outline the benefits users have reported to news personalisation, which will also support the BBC's commitment to the direction of travel. They highlight 'receiving more relevant news'. This increased relevance was coupled with an interest in personalised push notifications. A second benefit was that personalisation promised to 'save time' – an in age of information overload, personalisation helps to cut through the deluge and prioritise only that which was truly relevant. Finally, there could be similar sorts of 'usefulness in professional settings' where it was of great value to organisations to home in on specific issues. This enabled companies to streamline their information gathering processes (*ibid.,* 1149)[235].

Perhaps the clearest benefit, at least insofar as it is a definable measurement, is that there is plain evidence that personalisation leads to improved take-up of services. This is unsurprising given the figures that have stemmed from commercial usage of the technology. A piece on

[235] In addition to benefits, the paper highlights concerns raised by user. These are the 'risk of stereotyping', such that their profile, algorithmically generated, will not truly represent them. There was the 'risk of manipulation', where commercial and journalistic considerations might become blurred and indistinct. 'Data protection' was raised as a worry, given the amount of data that personalisation required. Finally, users were concerned about 'being caught in a filter bubble' (*ibid.,* 1150-1151)

Forbes last year proposed ‘fifty stats that show the power of personalisation’ (Morgan 2020), and while each of these figures would likely justify closer scrutiny, they plainly show a direction of travel and a widespread perception. One data point quoted by Forbes, drawn from a survey conducted by the IT Consultancy service, Accenture, suggested that ‘91% of consumers are more likely to shop with brands who recognise, remember, and provide relevant offers and recommendations’ (Accenture 2018, 3).

All the same, there is an awareness that there remains much work to. Almost every interviewee I spoke to, indicated that there was still much work to do, especially in News. This insight I echoes in the *National Audit Office* Report, which rates the personalisation and content recommendations for iPlayer, Sounds and News as adequate, falling behind in comparison to their primary competitors (NAO 2022, 34-36).

Annex 2 – Further Detail Regarding Privacy and Autonomy

To help appreciate the thought behind the risk posed to autonomy in the deployment of recommender systems, we need to unpack the term. Gerald Dworkin unpacks what is understood by the term, beginning with its etymology – auto (self) and nomos (rule) – autonomy is where a person or people have the capacity and opportunity to make their own rules (Dworkin 1981, 207). As such, decisions and actions are one's own – he points to Berlin's definition of 'positive liberty'[236] – 'to be an instrument of my own, not other men's acts of will' (Berlin 1969, 13). It is not enough, though, to mark out a person's ability to determine their own rules for living. There are a 'wide range of theorists', he notes, that recognise that people are disposed towards acts for many reasons – so it is not just the disposition and the corresponding choice that is at stake, but also the ability and freedom to choose between competing dispositions, and, in fact, to be able to draw preferences regarding them – in other words, to be capable of establishing both first and second order desires – not simply that I desire a thing, but being capable of desiring or even not desiring to desire that thing (for instance, I desire to not want to smoke). To have autonomy in this sense, then, is to not simply to act upon one's own will, but it is to be able to rationalise (in some sense[237]) about what one's will is.

[236] Isaiah Berlin distinguished between two forms of liberty: 'positive liberty' meant being able to do what you want and this entails being able to choose wisely, to deliberate for oneself; 'negative liberty' is the absence of restraint, nothing is limiting my actions. These can clash. Berlin gives the example of an alcoholic. If we remove her bottle, we deny her freedom, but by doing so, we enable her to make better choices. Put in the language of autonomy: removing the bottle denies autonomy, and at the same time promotes it, since she can now exercise better choices (Berlin 2002, 285). Berlin himself held that negative liberty would be the natural conclusion of liberal democracies – being free is 'indispensable to that minimum of independence which everyone needs if he is to develop'. A life without this 'does not seem worth living' (*ibid.,* 286).

[237] Wallace notes that there has been some debate to what degree second order desires must involve explicit reasoning, but concludes that there must be some capacity to take a perspective on oneself (Wallace 2019, 152).

So, if I choose to forfeit my first order desire in favour of a second order desire, then that is all well and good. The trouble comes when systems, such as recommender systems, appear to take these sorts of choices for granted. A recommender system, on our behalf, constrains and shapes the range of available choices. They employ choice architecture, which is to say that the field of choices available to the individual will be fashioned according to design decisions (Thaler & Sunstein 2008, 3, 11-13). The determination of those designs may be made consciously, or unconsciously, or they may, in the case of systems like recommenders be made automatically. The system makes a series of predictions as to what we will find relevant and prioritises them as choices for us to browse, instead of leaving us to wade through the full scope of content[238].

[238] Of course, the way that these recommendations are displayed is consciously decided upon by a designer. At the heart of Thaler & Sunstein's thesis is the idea of 'nudges', that through design choices (that may themselves be barely perceptible), people will be 'nudged' towards making particular choices. For example, the manager of cafeteria who places fruit within easy reach and chocolate in more out of the way locations is nudging the customers towards healthier eating (Thaler & Sunstein 2008, 1). The customer's range of choices is untouched but by presenting them in particular ways, some choices are easier than others. By reflecting on these decisions and the choice architecture they are framed within, we can theoretically encourage better decisions. Yeung (2017) picks up these insights and sees how they can be seen to apply within informational and digital environments, in particular decision-making and decision-guidance systems. Focusing on the latter, offering as an example Google's travel directions, she proposes that the algorithmically driven dimensions of these 'nudges', that they can be personalised, deployed at massive scale, etc., raise significant concerns, specifically their legitimacy, whether they are used deceptively, or with insufficient transparency.

Milano also views recommender systems as a species of 'nudge' technology (Milano et al. 2020, 962), in that they are typically constructed not with the primary aim of enabling user choice and facilitating a user to navigate large amounts of content, but actually to promote content and encourage users to access content more easily and thereby continue to use that system. As Burr et al. observe the recommender system (as a species of the *intelligent software agent* they discuss) is conditioned 'to influence the behaviour of a human user' (2018, 736). They propose that there are a number of ways to characterise the interactions between a system and a human user: coercion, deception, and different modes of persuasion. Coercion might occur if a user has no option to avoid the recommendation and deception may occur where the recommendations lead to content that is misleading (for instance, in the case of clickbait). Persuasion may occur in a number of ways; trading may occur where the system, knowing something of what the user expects, is able to strike a line between the user and the system's utility (for instance, to increase clickthrough, a system may endeavour to ensure a good deal for the user); nudging occurs when the system, using heuristic models, pitches recommendations that align with the user's biases and preferences, that may be sub-optimal for the user. They also consider that there might be 'second order effects', where the system produces changes to a user's beliefs or their considered utilities (*ibid.,* 744-759). However, unlike offline nudges that are aimed at groups of people, nudges that come through recommender systems, because they are personalised, they will be tuned to focus on producing nudges in ways that a given individual will be susceptible – these capabilities raise troubling questions.

Autonomy, then, occurs when a person is able to choose for themselves what to do according to their own first or second order desires and by the same token, their autonomy is denied when those choices or desires are obstructed. Hildebrandt, reflecting on these violations, concludes that 'the most serious violation is when others diminish my capability to reflect on my habits or inclinations, for instance by taking my first order preferences for granted and catering to them before I become aware of them' (Hildebrandt 2015, 92). Recommenders, by presenting, front and centre, choices made on my behalf appear to do exactly this – it 'diminishes my capability to reflect on my habits or inclinations'. It does not eliminate them – I can always reject the recommendations – but by presenting them to me prominently, I am less able or inclined, or both, to do the heavy lifting of thinking about what content I am really interested in or indeed what I ought to be interested in. It is less a case of removing my opportunity to choose according to my own values and priorities, and more that they are obscured, pulled behind the curtain[239].

[239] We see a similar notion developed by Julie E. Cohen in her framing of the 'networked self'. A key dimension of her book is devoted to exploring what she calls 'the play of everyday life'. Suggesting that much previous legal and social theory failed to really appreciate the 'ordinary, everyday ways that people use information, participate in culture, and experience networked technologies' (Cohen 2012, 50); conceiving modes of behaviour according to this *or* that theoretic model, but failing to recognise that people are much messier than that – people may be this *and* that and perhaps other things too. 'Play' is often conceived as 'frivolous' or childlike, but she proposes that it is a key dimension of a person's engagement and preparation for engagement with the world, and as such is highly pertinent to this challenge to recommender systems. She says (*ibid.,* 53f.):

> 'Play is both more serious … and it is far more fundamental to human activity.
>
> 'Social scientists who study play have concluded that its developmental functions extend into adulthood and remain centrally implicated in the processes by which individuals orient themselves to the world… Play is both the keystone of individual moral and intellectual development and a mode of world making, the pathway by which transformative innovation and synthetic understanding emerge. It is neither inherently frivolous nor essentially single-minded, but rather a process of open-ended encounter.'

People are, throughout their lives, whether alone or with others, trying out positions, thoughts, ideas, relationships with others and the world around them. They are rarely static long enough to accord neatly with some theoretic ideal of what a person might be. Play is in-between-ness. Cohen suggests that one way of seeing it is as between (re)production and resistance – holding to the established patterns of culture and pushing back against them (*ibid.*,, 55). To illustrate this in a more everyday concrete fashion, she notes that 'disruption may pose a threat, but it is just as likely to present an opportunity' (*ibid.,*56) – as we engage with aspects of life, such as threats, we may respond in different, mutually contrasting ways. Given the role that play has in everyday life and how constitutive it can be in the self-development of a person, interference in that play can hamper that development and in turn autonomy.

Fundamentally this is manipulation – often defined as exerting a form of influence that is neither coercion nor rational persuasion (Noggle 2022). Since it appears to bypass, or at least weaken, a person's ability to consciously choose for themselves, to reflect on 'their habits and inclinations', it would appear to undermine their autonomy[240].

Again, these observations provoke our concerns that recommender systems in constraining the choices presented to us impact our sense of autonomy. If our choices are limited by the system, our capacity to fully develop the interaction between different aspects of the person will be interfered with or short-circuited and consequently risks to undermine our autonomy (see also Burr et al. 2018, 763).

Privacy

A further set of concerns orientate around the gathering and use of data as an integral element of recommender systems and the impacts this has on the user's sense of privacy. Data protection and privacy will be issues that will re-emerge later in the study, when we turn to examine the legal responsibilities that relate to the BBCs deployment of recommenders, so I will leave some of the detail until we reach that section.

Nonetheless, one problem emerges quickly and has relevance for this study: what is meant by privacy? Many definitions have been proposed, some conflicting. BeVier suggests that 'privacy is a chameleon like word, used denotatively to designate a wide range of wildly disparate interests – from confidentiality of personal information to reproductive autonomy – and connotatively to generate goodwill on behalf of whatever interest is being generated in its name' (BeVier 1995, 455). Post (2001) considers three approaches to understanding privacy: knowledge (in the unusual sense of 'disclosing the kind of information that cannot be adequately understood in the absence of special circumstances, like intimacy' (2001, 2088);

[240] This is disputed, see Buss 2005

dignity ('as the sense of ourselves as commanding attitudinal respect' (*ibid.,* 2092)); and freedom (as 'a space in which social norms are suspended… persons as autonomous and self-defining' (*ibid.,* 2095). It is easy to understand why he might say (*ibid.,* 2087):

> 'Privacy is a value so complex, so entangled in competing and contradictory dimensions, so engorged with various and distinct meanings, that I sometimes despair whether it can be usefully addressed at all.'[241]

Pushing further, we note with Sykes (2000) that there are positive and negative ways of thinking about privacy. The positive: the privacy *to do* – the privacy to be, to think, to let off steam, to develop intimate relations. This contrasts with the negative – the privacy to be left alone, unmolested, to not be interfered with – recalling the classic definition from Brandeis: 'the right to be left alone' (Warren & Brandeis 1890)[242].

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[241] Echoing this point and extending it further, especially as to how it can be applied legally, is Galison and Minow (2005, 268):

> 'The vulnerability the legal conception of privacy produces is a result of its plural and diffuse nature. Predicated on plural and at time inconsistent social values, constructed by judges without a clear grounding in legal text or tradition, and wedged within a distinction between public and private spheres that limits the scope of legal remedies, legal privacy faces predictable competition and likely defeat. The very structure of privacy as an individual right, subject to countervailing state interests, is too crude to deal effectively with shifting social relationships; it is also adrift from foundational ideas that could withstand the politics of the moment.'

Again, Solove makes a similar point (Solove 2011, 24):

> "What is "privacy"? Most attempts to understand privacy do so by attempting to locate the essence of privacy—its core characteristics or the common denominator that links together the various things we classify under the rubric of "privacy." Privacy, however, is too complex a concept to be reduced to a singular essence. It is a plurality of different things that do not share one element in common but that nevertheless bear a resemblance to each other."

[242] We see similar but not quite parallel approaches to this developed by others. Solove (2011) considers that many arguments regarding privacy orientate around the desire to hide information from other parties, including the government, and that these sorts of positions often provoke what he describes as 'nothing to hide' arguments – in other words, if you have nothing to hide, then you have nothing to fear from compromising your privacy. He argues that this position, often results in a trade-off between privacy and security, which he argues is without warrant (2011, chapters 2-5). Nissenbaum proposes that what matters is less hiding our information but rather controlling it, ensuring that it is used appropriately (2010, chapter 1; 2011, 34; See also Bernal 2014, chapter 2).

The negative mode could be said to stem from its origins in liberal theory – privacy marks the line between the individual – the basic building block of liberal society – and others, and society as a whole (Bennett & Raab 2003, 14). The individual has the right to be 'left alone', to be unrestrained in the pursuit of their own interests so long as they cause no harm to others. At a political level, it is through privacy that lines are drawn between what is the proper and appropriate business of state power and what comprises the world of the individual (*ibid*.). However, Cohen (2013) challenges this relationship. She argues that liberalism privileges notions of a precultural, autonomous core, where there are fixed boundaries to persons but that these do not hold up well under scrutiny (2013, 1908). There is not a 'precultural core' because we are born into a culture and remain situated within it. Furthermore, our relationship with privacy is dynamic and changes in different ways in the different times and contexts of our lives. Cohen does not deny the virtues of the negative conception represented by liberalism, although she does suggest that it is 'idealised' (*ibid.,* 1910). Instead she points us towards privacy as the development of a 'critical subjectivity'. She writes:

> "…The development of critical subjectivity is a realistic goal only to the extent that privacy comes into play. Subjectivity is a function of the interplay between emergent selfhood and social shaping; privacy, which inheres in the interstices of social shaping, is what permits that interplay to occur. Privacy is not a fixed condition that can be distilled from an essential core, but rather 'an interest in breathing room to engage in socially situated process of boundary management'. It enables situated subjects to navigate within pre-existing cultural and social matrices, creating spaces for the play and the work of self-making" (*ibid.*, 1911)

De Koops et al. propose that unitary conceptions of privacy are inadequate, agreeing with Solove that privacy is too complex to be boiled down into a single idea (De Koops et al., 2017, 488). They produce a multi-dimensional model that contains nine basic types of privacy, arranged in two broad categories of placing the emphasis on 'freedom from' and 'freedom to', and extending from the personal and intimate to the public. The spheres within this include bodily, spatial, communicational, proprietary, intellectual, decisional, associational, behavioural and informational privacy (2017, 484, 510-544).

In other words, privacy is not a single set of parameters on our persons and interactions with others – a body of rules that can be articulated just so. It is conditioned by our social situation in general and in its specific circumstance – so the needs of privacy vary and shift accordingly. But at its heart, privacy is valued and needed as offering a space where we can work ourselves out as persons – figure out our thoughts and responses to the friction of our lives and interactions. In other words, we're back to positive conceptions of privacy.

From having addressed the question of privacy and having settled, for the moment, on a positive conception, we must ask the question of how the deployment of recommender systems might threaten to impact the privacy of individuals, in the sense of intruding upon on the development of a critical subjectivity, or the 'incomputable self' (Hildebrandt)[243], or simply the opportunity to be, to think, to work out their thoughts for themselves. At first glance, it's not obvious – after all, if a person sitting in their room logs onto iPlayer and receives a series of recommendations, how is their privacy – in this specific sense being interfered with?

Richards proposes that an appropriate model for the digital age is 'intellectual privacy'. He defines this as 'a zone of protection that guards our ability to make up our minds freely… the protection from surveillance or unwanted interference by others when we are engaged in the process of generating ideas and forming beliefs' (2015, 95). Richards does not see this as a purely isolated dimension of a person's life, however, but as a feature of our lives amongst others. Our personal development of ideas is something that is tried out and tested with other people. Intellectual privacy, therefore, does not only require the space for an individual to develop and refine their ideas, but also the social spaces to share them. Cohen takes a similar path. She starts by casting some doubt on the way that autonomy has often been used to support privacy considerations, for instance in the way that Post describes as 'freedom', not

[243] Hildebrandt has placed the challenge of privacy in relation to the 'incomputable self'. By this she points to the extent to which real life resists 'numerization', 'digitization' and ultimately 'datafication' – we can only process our lives so far, and what's more, we can only be captured in the third person; a 'her', 'him' or 'they'. We can never be captured in the first person, as an 'I' (Hildebrandt 2019, 91-93).

least in that autonomy in that sense tends to obscure the degree to which people are socially constructed (Cohen 2012, 110). She considers what she describes as the 'romantic dissenter'. The former corresponds with the ideas employed regarding autonomy, and similarly to the model presented by Richards, the romantic dissenter requires freedom for herself but also out in the 'rough and tumble of the marketplace of ideas' to develop her own thoughts, whilst avoiding 'majoritarian displeasure' (*ibid.,* 111).

The point being drawn is that recommenders risk impinging on our ability to 'make our minds up freely' and interfere in 'the process of generating ideas and forming beliefs'. This freedom, autonomy, can then be expressed and tested in the 'marketplace of ideas'. So recommenders, by offering a proscribed set of choices based upon similarities between sets of content and between users, risks offering a limited range of ideas and thus, our freedom.

Annex 3 – Brief Detail on the Use of Recommender Systems

To point a little to the way that recommenders have been applied in the context of broadcasting, I will first, very briskly, point to a few, very prominent, examples of recommenders being put to use. I have two reasons for this; first, simply to illustrate in broad, simple terms how recommenders are used, especially in the context of broadcasting and news production; second, to begin to bring to the surface why it is important that we consider the challenges raised by recommenders within the context of *public service* broadcasters in particular. In short, each of the examples below are commercial businesses – their only priority, fundamentally, is to make money and stay in business. By contrast, a public service broadcaster like the BBC has a set of further responsibilities that need to be considered[244].

Recommenders gained their reputation in the context and environment of e-commerce (Linden et al. 2003, 76). Amazon, in particular, was built by its ability to generate recommendations that improved upon those given by humans. Mayer-Schönberger and Cukier recount the story, told by Greg Linden, who worked at Amazon in its formative period: Amazon had begun with a cadre of human book reviewers. Founder Jeff Bezos considered using individual shopping data to improve the quality of recommendations, utilising a crude form of collaborative filtering – comparing customer with customer. However, it was when Amazon adopted item-based collaborative filtering models that things took off (Mayer-Schönberger & Cukier 2017, 51). When Amazon entered the streaming market in 2006, expanding in 2008 and 2011 with the purchase UK's *Lovefilm* service (Halliday 2011), they initially employ deep neural network methods, but

[244] Do these 'further' responsibilities of the BBC represent an extension of the responsibilities that a commercial broadcaster may recognise or are they simply different? Chapters 3-5 will go some way to articulate the responsibilities that are particular to the BBC, and it is plain that there *are* responsibilities there that are unique. However, the argument can be put that the BBC shares some priorities with commercial broadcasters, in that it is still concerned in pursuing and keeping larger audiences. (REFERENCES)

they found that despite the complexity involved, item-to-item collaborative filtering still outperformed. They continued to use neural networks, but in conjunction with collaborative filtering, eventually refining the networks such that they exceeded other methods. This was measured by observing 'whether at least one of its top six recommendations for a given customer was in fact a movie that that customer watched in the two-week period after the cut-off date' (Hardesty 2019). It was.

Netflix is another often cited example. The company began selling and renting DVDs by mail, although they quickly abandoned the sales element and focused on the rental function. They sought to develop recommendations, but because the only primary data they had came from customer ratings, they were crude and basic (Gomez-Uribe & Hunt 2015). Nonetheless, there was significant effort to improve recommendations. In 2007, the year that Netflix introduced streaming services (Anderson 2007), they made a large amount of data available for companies or individuals to improve on the recommendation systems they had in place (Bennett & Lanning 2007) in the form of a competition known as 'The Netflix Prize', something they repeated in 2008 and 2009. Unsurprisingly, this has resulted in Netflix producing very powerful and flexible recommender systems – plural because they employ dozens with different priorities (Gomez-Uribe & Hunt 2015, 13.2-13.6; see also Steck et al. 2021). In their testing (often A/B), Netflix employ a wide array of metrics – most prominently retention, but also 'time to first play, sessions without a play, days with a play, number of abandoned plays' and so on (*ibid.,* 13.11). The overall result has been a user experience that is very efficiently 'compelling' and has positioned Netflix as a very successful player in the field of streaming media.

An example probably most closely aligned to the role taken by the BBC – at least so far as news content is concerned, is the New York Times, which, like the BBC, has been offering an online version of their news content since the 1990s. Personalisation in news is distinct from general media provision in a number of respects – consumption time is lower, lifespan shorter,

catalogue size greater and so on (Raza & Ding 2021, 753f.), and so the requirements of a recommender will reflect this. Like the BBC's online news provision, not all New York Times content is personalised – some is curated (Coenan 2019), which is to say that much of the selection work is still performed by human editors. The New York Times' Recommendations are the result of a three-pronged approach (Spangher 2015). First, the content of the text is analysed, much like the TF-IDF model outlined above, highlighting key 'topics' (words) and weighting them accordingly. Second, a collaborative filtering approach is added, comparing users with others, so more contextual factors might be incorporated, not purely similarity of content. Finally, is to build up a profile of a user's activity, calculating from the articles a person has previously read and inferring from there. In addition to these models, the New York Times also employed demographic information (Coenan 2019).

The point of this diversion is twofold. First it is to simply illustrate, using concrete and relevant examples, how recommender systems might apply in the world of media content – to demonstrate a little how the methods we have outlined have been employed by Amazon, Netflix and the New York Times. I chose these platforms specifically because: a) they were prominent and successful, and b) they bear some similarity to the BBC and the problems that they face. But second, I wanted to do this before turning to the problems and challenges that have been raised in relation to recommender systems. Regardless of the successes that have been achieved in their implementation, there remain issues that need to be addressed, and especially for a public service broadcaster like the BBC. Amazon, Netflix and the New York Times are all commercial businesses. Obviously, they are responsible to the relevant general laws, but beyond this, their responsibility is simply to be successful in gaining customers, retaining customers and, at bottom, making money. As such, users are viewed less as citizens than simply as consumers. The potential impact of their operations, even for the New York Times, is less orientated with how they respond to one another or particulate in their political environment, than whether they will renew their subscription or purchase another product. The

BBC, as we will discuss in depth in Chapters 4-5, has a family of responsibilities that extend well beyond compliance with general laws. At a very simple level, not only is the BBC responsible to comply with general laws, but the founding Charter itself represents a body of legally enforceable obligations that the BBC must recognise. As we turn to the challenges that emerge for recommender systems in general, we will note that these raise more particular concerns when they are applied to media distribution, and when we come to place them specifically in the context of the BBC, we will see them become yet more acute.

Annex 4 – A Brief History of Ofcom

When the BBC was in its infancy, broadcasting was regulated for two primary reasons[245]. The first was technological: spectrum scarcity suggested that there was a clear limit to the number of stations that could operate properly. The second was the idea of public service. Broadcasting in the UK, and so the BBC would be run for the benefit of the public. Reith was acutely aware of the social role that broadcasting was to take. Writing in 1925, Reith stated that 'it [broadcasting] will become a world influence with immense potentialities for good – equally for harm, if it's function is wrongly or loosely conceived' (Briggs 1995, I: 305f.). Regulation of the BBC was the responsibility of the BBC Board of Governors, but ultimately, the BBC was, in practical terms, answerable to the postmaster general, who possessed the ability in the final analysis to remove its license to broadcast. Come the Charter of 1927, this threat is included unambiguously in Article 18 (ii), that if the postmaster-general is satisfied that the 'provisions of our Charter… have not been observed or complied with', then he would have the right to 'revoke and make void' the Charter, thus removing the BBC's ability to broadcast. However, Robertson & Nicol also note that the internal rules, established by Reith, concerning taste and decency were so strict that there were few calls to subject the BBC to greater scrutiny (2008, 865) – later, the same authors suggest that the BBC were seen as almost untouchable, based upon 'the promises of gentlemen' (*ibid.,* 932). Barendt observes that the Ullswater Committee of 1936 did not even think this a matter worthy of comment (1995, 11).

That said, from the outset, the BBC has always had a close, dependent, relationship with the government of the day. The Government selects the Chairman of the BBC, as well as having a say in the other Governors, Trustees or Board members (depending on the constitution of the day); it controls the cost of the license fee, the primary income stream of the BBC; and as last resort it retains the ability to revoke the BBCs license to broadcast (Robertson & Nicol 2008,

[245] Financial considerations were a third.

932; see also Collins 2008, 83). So even though the BBC is thought of as independent from Government, there remained significant influence upon the BBC.

Nothing much changed until the 1980s. The Annan Committee of 1977 had reservations regarding an external regulator[246], but it did recommend an organisation to 'consider complaints against all Broadcasting Authorities of misrepresentation or unjust or unfair treatment' (*ibid.,* 474). In 1980, the new Government under Margaret Thatcher, passed the Broadcasting Act 1980, which included provision for a Broadcasting Complaints Commission. In addition to unjust or unfair treatment, as proposed in Annan, the Act includes infringements of privacy (s.18 (1)). Broadcasters were obliged to pay for the Commission (s.24) and complaints that are upheld are to be published (s.21). To this was added in 1988, the Broadcasting Standards Council, codified into law in the Broadcasting Act 1990. Section 152 (1) holds that it is duty of the Council to draw up a code regarding the portrayal of violence and sexual conduct in programmes, and standards of taste and decency in general, and that this code should apply to all broadcasters, including the BBC.

The 2003, the Communications Act was passed. Under the logic of convergence, a new regulatory body, Ofcom was to be established, subsuming the ITC, the Radio Authority, the Broadcasting Standards Commission (which had replaced the British Standards Council and the Broadcasting Complaints Commission in 1996), the Radiocommunications Agency and

[246] The Annan Committee was critical of both the BBC and the (now) IBA (having replaced the ITC) and pressure was beginning to mount from consumer groups, notably the Viewers and Listeners Association, headed by Mary Whitehouse. Amongst the criticisms the Annan Committee levelled at the 'comfortable duopoly' was that both had failed to be fully accountable to the public. Sections 4.10-4.13 of the Report dealt with the question of how accountable they were (Annan 1977, 32-34), and the report concluded noting the disquiet that had been growing concerning the responsiveness of the BBC and IBA to the public. Potter comments that 'except among broadcasters, it was generally accepted that these cries from the heart, coming from both right and left, were fair comment. ITV was no readier than the press to admit mistakes and apologise, and the BBC's arrogance was notorious' (Potter 1989, 245). The Report adds: 'Much of the evidence we received was particularly critical of the BBC, who attitude was described as not only cavalier, but aggressive and arrogant' (Annan 1977, 58). Even so, the Report rejected the suggestion that an external regulator ought to be set up. Paragraph 30.8 in the conclusions to the Report states that the panel were 'not in favour of new bodies designed to lay down rules and regulations and either Lord it over the authorities or lavish them with advice' (*ibid.,* 473); indeed, it would be 'insufferable' (*ibid.,* 37).

Oftel. On the face of it, this looks like a straightforward case of streamlining (Smith 2006, 929). Convergence points to the changing technological landscape of media and communications. Whereas previously televisions were for watching television programming, largely as and when it was aired, radios were for listening to radio programming in a similar fashion, computers were for computing, telephones for speaking to people and so on, these divisions were being increasing put to one side. New technological affordances meant that a person might receive and watch television programming on their computer or their phone or access the internet through their television. Rather than having discreet bodies that concentrate on each media, one overarching body could regulate them all.

The duties of Ofcom are accounted for in Article 3 of the Act. Subsection (1) states that it is the duty of Ofcom to promote the interests of (i) citizens and (ii) consumers[247]. However, the regulatory burden under the Act is primarily aimed at Channels 3, 4 & 5. Only some provisions weigh on the BBC – privacy, fairness, protecting under 18s, harm and offence, crime and religion apply to the BBC (Cave et al., 2004). Four other areas; impartiality, accuracy, elections, sponsorship and commercial interests, all remain under the BBCs responsibility (Robertson & Nicol 2010, 887). The Board of Governors remained responsible for governing the BBC, although this was replaced in 2007[248], under the new Charter by the BBC Trust (Carey 2010, 239).

[247] Beyond this, they are wide ranging, as you would imagine for a body that replaced so many previous organisations. In headline, a few of the specifically relevant duties include, all from subsection (4): having regard for the desirability of promoting the fulfilment of the purposes of public service broadcasting (a), promoting competition (b), the development of effective forms of self-regulation (c). In addition, Ofcom must have regard to the vulnerability of children (h), people with disabilities, the elderly and those on low incomes (i), and the interests of people in different parts of the UK, of the different ethnic communities and of people living in rural and urban areas (l).

[248] Under the terms of the 2007 Charter, the sovereign body was the BBC Trust (Art. 9 (2)). The 2007 Charter reads: "In particular, where the Executive Board has operational responsibility for activities which are subject to a Trust function of approval, supervision, review or enforcement, any decision of the Trust in exercise of such a function shall be final within the BBC." It adds, that where appropriate, the activity may also be subject to regulation by other bodies, such as Ofcom. The primary function of the Trust is to hold the executive board "to account for the BBC's compliance with applicable regulatory requirements and the general law" (Art. 24 (2) (f)). In short, the body responsible for holding the BBC accountable to the terms of the Charter and to their obligations according to general law was, at the bottom, the BBC Trust.

This changed again come the 2016 Charter. The BBC Trust was abolished, and sole regulatory responsibility was passed to Ofcom[249] (Art. 44-51). In summary, Ofcom regulates the BBC with particular regard to the object of the BBC fulfilling its Mission and the Public Purposes, protecting fair and effective competition and ensuring the BBC complies with its duties under the Charter (Art. 45). Ofcom prepares and publishes an Operating Framework, as well as setting an operating license such that it ensures that the BBC fulfils its Mission and Public Purposes. It must also determine measure for assessing the BBC's performance, as well as securing the observance of standards (Art. 46). In addition, Ofcom must force compliance by the BBC of these requirements (Art. 49), including the Broadcasting Standards Code.

[249] The Culture, Media and Sport Select Committee Charter Review offered some insight into why the government had come to feel that the Trust was not up to the job. In the first place, while they offered some improvement on the Board of Governors, who were described as a 'combined cheerleader/accountability mechanism', the Trust simply was 'not radical enough, failing either to meet the BBC's needs for clear management structures and responsibility or to give the public confidence that the BBC was being rigorously held to account by an independent body representing licence fee payers' interest' (CMS 2016, Para. 17). Further, the Trust had "no teeth'... it was difficult to say precisely to whom the Director General of the BBC was operationally accountable—and therefore who bore what responsibility for final decisions. (*ibid.,* para. 18)'. In **sum, they write: '**we have reluctantly concluded that it has lost confidence and credibility and should be abolished... the problem that the Trust was intended to solve—the need for the BBC's top managers to be appropriately challenged and held to account on behalf of the licence fee payer—remains (*ibid.,* para. 25). Sir David Clementi in his review of the governance at the BBC considered the options and concluded that the current model '**is flawed. It conflates governance and regulatory functions within the Trust. However re-structured, it would** still leave two Boards within one organisation, with the likelihood of confused responsibilities', and as such 'regulatory oversight of the BBC should pass wholly to Ofcom' (Clementi 2016, 7).

Annex 5: Cilliers' Philosophy of Slowness, Personalised Media Recommender Systems and Public Service Broadcasters

Abstract:

This talk is concerned with applying ideas from Cillier's seminal paper on slowness to my doctoral study, which is focused on the BBC's deployment of algorithmically driven recommender systems to offer personalised media content recommendations. The 'cult of speed', as he describes it, places speed as aligned with efficiency or success. While speed is sometimes appropriate, and we can talk of and defend appropriate speed, speed risks undermining the role that memory might play, especially the development of memories and the place they play in the formation of identity. I apply these insights to two elements of my study: recommender systems and the individual users of them. In the case of the former, I comment on their real-time operation and the difference between relevance and significance. For the user, I note how recommender systems run the risk of exacerbate the qualities of a 24 hour news cycle and limit the absorption rate of content. I conclude by reflecting on how public service media providers might respond to this challenge, and whether they should offer any resistance.

Cilliers' 'Complexity and Philosophy'[250] and Personalised Media Recommender Systems.

[250] Cilliers, P. (2006), "Complexity and Philosophy: On the Importance of a Certain Slowness" in *Emergence: Complexity and Organisation*, Vol. 8(3), p.106-113

What follows does not amount to an argument. Not at all. It is, at best, a reflection, or a meditation on applying Cillier's argument to my study. I'll add now, although I'll explain later, that regardless of any applicability I might note, any such outcome will be ultimately futile.

I'll start with my study: it focuses on the BBC's deployment of algorithmically driven recommender systems to offer personal media content recommendations to users, and to consider how these might be delivered responsibly. Obviously, there's lots to say about this but I'll stick to the basics. There are several moving parts; there's the technology – algorithmically driven recommender systems; there's the institution – the BBC – as well as the context (legal and political) in which the BBC exists, and the conceptual framework it exists in as a public service broadcaster; there's the individual user, to whom the recommendation is given, as well as the body of individual users, the data from whom the recommendations are generated; and there is the wider society in which all this occurs, and the potential impacts that might be felt at this level.

We do need to take a few moments to take stock of Cilliers' argument. The title reveals little: the subtitle is where it's at – *On the Importance of a Certain Slowness*. In headline, he is railing against the 'cult of speed', especially where speed is equated with efficiency, success or progress. He is keen to underline, though, that it is not slowness he favours, nor fastness he's against – his argument aims for 'appropriate speed'. It's just that much of the speed that is championed is unreflective and offers inadequate space for the development of memory and ultimately identity. This is especially the case in the shadow of certain technological developments, which is judged by the 'tyranny of the moment', a 'perpetual present' where we are all expected to be available, in all times and places. This gives rise to the "illusion of simultaneity, the idea that if we live quickly and efficiently in the present we are somehow closer to reality". This illusion neglects the values of delay and reflection, as well as the roles of memory and anticipation. To illustrate this, Cilliers points to the metaphor used by Milan

Kundera, of a motorcyclist who, constrained by speed and the needs of the machine, is held to the immediate, whereas a pedestrian can see their environment and route slowly open up before them as they walk.

To help unpack this difference, Cilliers points to the role of memory. He defines memory as "the persistence of certain states of the system, of carrying something from the past over into the future". Memory is not a solely cumulative process, however, it is selective, filtering the less significant events in favour of the more impactful. This process is key to distinguishing between valuable information and simply noise. But these aspects of memory are not immediate, they require time to develop, to filter out the irrelevant and to reinforce the essential components. This is a slow process and cannot be achieved instantaneously. Furthermore, memories as reinforced are the foundation of our future expectations, our anticipations – it is fundamental that we form solid, reliable and relevant memories for us to learn lessons and move forward. These dynamic memories and anticipations are constitutive, in a key way, of the identity of a complex system. But, to repeat, these processes cannot be produced instantaneously – there must be the space for the filtering and processing of events such that the system gains the opportunity to differentiate itself from its environment – if there is no such chance to do so, it will not be able to properly distinguish between useful information and noise.

A complex system, such as a person, if it is to be able to fully develop all facets of itself, such that it can learn of its past and its present and look to anticipate various possible futures, needs certain slownesses to cultivate and enrich its experience. As tempting as it is to have instant answers to questions, immediate responses and processes, these are not always best for the system as a whole. Cilliers takes education as an example. We might imagine the educative process as something that could occur at the press of a button – information downloaded, installed – but this falls short of what is really desired. Sometimes it is the process of learning

that is valuable and not simply what is learnt. Perhaps even more so, information is not necessarily knowledge, still less wisdom.

Cilliers concludes:

> "At this point the argument for slowness becomes a political one: We should put up some resistance to a culture in which being fast is a virtue in itself. We should say 'no' with a little more regularity."

So okay, having engaged with Cilliers, how does this apply to my study?

Cilliers doesn't really nail down what he means by complex systems in this essay, but it seems plain that there are several suitable candidates for them in my study. For the sake of brevity, I'll limit my attention to two: the recommender systems themselves, and the individual user.

The goal of a recommender system is to assure relevance for the user such that they have sufficient interest in whatever it is being recommended. If the recommender is operating on behalf of a retailer, its success will be measured in terms of the sales of recommended items; if it is a commercial media content provider, then it will be judged by attracting relevant clicks, and ultimately keeping the user on the platform. For the BBC, the picture is less straightforward since the goal of the organisation is neither to sell product, nor to gather clicks (data), but to 'educate, inform and entertain', but nonetheless similar measures are recorded.
Recommenders operate in various ways – BBC recommenders utilise a combination of two familiar methods; collaborative filtering (CF) and content based (CB). The former compares the activity of users to find common behaviours, from which it predicts that an individual user will like and behave similarly to those with whom they are similar. Content-based recommenders look for similarities in content – like horror movies with axes? Here's another one – and so on. There are various pros and cons to these approaches, but we don't need to go into that here.

Like other complex systems, recommender systems rely upon memory in the form of data. Also, like other algorithmically driven complex systems, they may operate in real time. Allowing for the learning element of machine *learning,* we might say that the system learns from its memory and that it might do so on the fly, making adjustments as new data enters the mix. In this, we certainly see familiar features to those described in Cilliers' argument – it is indeed the data (memory) that shapes future recommendations. But we wonder about the import that is given to different patterns of data. The data, of course, is being filtered according to its relevance for the user (whether CF or CB), but how much does it register significance? This is more acute when we turn to issues of current affairs and news, which, almost by definition, allow for much less time to consider such things. Here we inevitably turn back to Cilliers' qualification at the beginning of his essay that it is not speed he objects to, but unreflective speed, inappropriate speed. News content, and the recommendations that are concerned with it, needs to be brisk, but the quest for immediacy – especially on the internet on a 24-hour news cycle – runs the risk of obscuring the difference between information and noise. Content is given, recommended, but is it information or is it just more noise?

It probably goes without saying that recommender systems don't have much in the way of identity – certainly not in the way would associate with individuals. But those receiving the recommendations do, and as we turn our attention that way, we must ask how the individual is served by such systems. The news cycle drives relentlessly onward, and the recommender systems continue to point the user to new content. The quest is always to point to that which is breaking, that which is immediate, instant, most of the moment. But the news cycle isn't interesting in giving stories time to develop, they push on to the next story. It is this feature of our news environment that allows controversial politicians to drive the news agenda and avoid scrutiny – all news is good in some sense, at the very least it obscures the details of yesterday's headline. The individual isn't given the time to form memories and identify points of real, abiding

significance. If these dynamic memories are a key element in the development of identity, then at least some of that is denied the individual.

Recommender systems don't necessarily help either. They will either, much like the news cycle in general, just push on to the next big thing – perhaps the next big thing of the type that the individual has deemed relevant. Alternatively, they will draw on the behaviours of other like-minded individuals. But even then, the collaborative filtering approach is not really looking for a deeper significance, but simply reflecting what other similar people are interested in. People, by and large, like the next big thing. An individual is not going to be in a much better position.

Cilliers says:

> "A viable system has to be able to *resist* some of the dynamics in its environment. There should be a temporal space in which the past is allowed to play itself out in interaction with the present. There must be time for reflection and interpretation. The faster the system becomes, the shallower its resources will be."

The arena of news recommendations does not show many signs of resistance to the dynamics in its environment. We might propose that the BBC, as a public service broadcaster, ought to put up a fight.

I said at the beginning that there was a sense of futility in this piece. Firstly, recommender systems are here to stay – the online news environment is already committed to a process of personalisation. Furthermore, while I don't think that recommender systems will help, in fact, I think they'll hinder, I don't think that they are really going to make that much of a difference. The 24-hour news cycle has already, I think, set the agenda. Unless an individual makes an express choice to step out of the relentless flow of current affairs media, by perhaps choosing to

investigate a specific issue or extreme selectivity, the cult of speed Cilliers identifies is already in place.

Annex 6: Further Detail on the Politics of Difference and Agonistic Philosophy

It is a central motif of public service broadcasting that it is to provide a universal service – that in it all people, from every community, will be recognised, reflected and represented. This can be seen not only conceptually, but in the Charter, in the demand that the BBC is to provide 'a valuable service for all' and that users will experience the 'diverse communities of the nation'. While deliberative democracy and epistemic trust are both of importance, especially when we consider how they contribute to our democratic discussions and engagement, some scholars have felt that deliberative democratic thinkers in particular have failed to realise that some groups and communities have not been fully recognised and included. The focus here shifts from the role that public service broadcasting has for the quality of democratic participation to extend that question, expanding to include representation.

Under this heading I am grouping a cluster of approaches and thinkers that, while all different and concentrating on specific issues of their own, all share a common theme. Included we find communitarians like Charles Taylor, agonistic democrats like Chantal Mouffe, and defenders of the politics of difference like Iris Marion Young. At their heart, to greater and lesser extents, they are all looking to draw attention to 'the fact of heterogeneity rather than on the hope of homogeneity' (Allen 2011, ix) and in doing so offer some critique of liberalism and its concentration on the atomised individual and belief in the value of public reason as a universal principle. As much as, if not more than, the other components of the framework, each of these approaches and thinkers have generated substantial amounts of literature of their own, they overlap and conflict and produce new areas of debate. However, again, it is not my intention to get embroiled in those discussions, to take sides or adjudicate – I am interested in drawing from this field the common idea that it is essential that diversity within society is to be recognised and celebrated, that we ought to be critical of essentialism or any universal presumption of

what people should be like, and that it is beholden upon the BBC in it's deployment of recommender systems to distribute their content to ensure that the things that differentiate us within society are given a proportionate weight to the things that are held in common. In doing so, I will direct my attention primarily at the work of Iris Marion Young and her classic work *Justice and the Politics of Difference*, extending to other thinkers and arguments where appropriate.

Iris Marion Young

Young's work starts from the question of social justice, which she defines as the 'elimination of institutionalised domination and oppression' (Young 1990, 15). However, attention is directed to the sense by which justice is understood as distributive, focusing on the sharing out of resources, burdens and benefits – e.g. wealth or patterns of distribution. Young notes that most scholars have concentrated on this approach – most notably liberal thinkers (such as Rawls), but also including critics of liberalism (O'Neill, Neilsen) (*ibid.,* 16-18). While she recognises plainly that there are good reasons to direct attention towards distribution, she proposes that many appeals to justice are not concerned with it. They are concerned with issues of decision-making power, division of labour or cultural imagery (*ibid.,* 19-24). Distributive models of justice neglect the social structures and institutional contexts within which injustices occur – arenas such as the family, the state, the workplace, and civil society. These scholars may seek to describe injustices regarding rights or self-respect in terms of distribution – but how, Young asks, do we distribute goods such as these? What would that mean? We could shift our focus to social power, but to talk about this in terms of distribution is misleading, it tempts us to think of power as a thing, but we should really think of it as a relation (*ibid.,* 30-31) – the relative positions of the person(s) who have power to those for whom power is deployed. Moreover, it draws our attention to the individuals who have power, the specific agents, and obscures to us the structures within which they operate and which secure their position. Young offers the example of a judge, who may be said to hold power over a prisoner. What matters is less the

specifics of that judge relative to the convict but more the institutions and structures that enable the judge to have power and which support and facilitate the judgements made. Finally, she observes that thinking of power distributionally leads us to think of power being in the hands of a few, whereas, through social structures, she argues, power is diffused throughout society, and through society people and groups are likely to suffer domination and oppression (*ibid.,* 32-33).

Justice needs to be thought of in terms wider than simply distributive. Young follows Agnes Heller in considering that justice is not only concerned with distribution, but also the 'perspectives, principles and procedures for evaluating institutional norms and rules'. She continues, 'the idea of justice here shifts from a focus on distributive patterns to procedural issues of participation in deliberation and decision-making. For a norm to be just, everyone who follows it must in principle have an effective voice in its consideration and be able to agree to it without coercion. For a social condition to be just, it must be able to meet their needs and exercise their freedom; thus justice requires that all be able to express their needs' (*ibid.,* 33-34). Justice, then, extends beyond the distribution of goods and must encompass 'everything political' including the plainly institutional but also the mess of social structures that characterise society[251]. In so doing, however, it must still encompass the liberal commitment to individual freedom (*ibid.,* 36).

Having gone some way to unpack the concept of justice, Young turns to consider the nature and role of social groups, since it the experience of justice that is had by different social groups that is at stake, especially when and where we can talk of their oppression and domination, which is to say that in some sense, they 'suffer some inhibition of their ability to develop and exercise their capacities and express their needs, thoughts and feelings' (*ibid.,* 40). This oppression can

[251] She adds that this is not intended to extend to all moral norms, the preferences and ways of life of individuals or groups – only to the extent that relations are subject in some fashion to collective decision (Young 1990, 36).

be thought of as structural, in that it is 'embedded in [the] unquestioned norms, habits, symbols, in the assumptions underlying institutional rules and the collective consequences of following those rules' resulting in the deep injustices some social groups suffer, often at the hands of 'unconscious assumptions and reactions of well-meaning people in ordinary interactions, media and cultural stereotypes, and structural features of bureaucratic hierarchies and market mechanisms – in short, the normal processes of everyday life' (*ibid.,* 41). In looking to address the oppression that people face it is not enough to simply produce new legislation or hold an election, since the real causes of oppression are to be found in the bones of the primary institutions of social and political life.

Oppression is experienced by individuals, of course, but most often it is on account of that person's membership of some social group that it occurs. Young defines a social group as 'a collective of persons differentiated from at least one other group by cultural forms, practices or way of life' (*ibid.,* 43). These groups overlap and intersect in a variety of ways and a person will likely be a member of multiple groups at once – groups of class, race, gender, sexual identity, for example[252]. Social groups are not to be thought of aggregates of people, nor simple

[252] A significant challenge to Young on this point is that her approach amounts to little more than identity politics, simply asserting group specificity, resulting in the evacuation of public space of coalition and cooperation, and producing confrontation and separation (Young 1997, 213). She quotes Jean Elshtain:

> "To the extent that citizens begin to retribalize into ethnic or other 'fixed identity' groups, democracy falters. Any possibility for human dialogue, for democratic communication and commonality, vanishes as so much froth on the polluted sea of phony equality. Difference becomes more and more exclusivist. If you are black and I am white, by definition I do not and cannot in principle 'get it'" (ibid., 214; quote taken from Jean Elshtain, Democracy on Trial, 1995)

Young accepts there may be some representatives of some groups that may have adopted a position like the one Elshtain describes, but she rejects that should be viewed as a politics of identity. She recognises from the outset that there are numerous conceptual dangers in identity politics; namely, essentialism, the existence of divergent values, and intersectionality. She recognises 'dilemmas of difference' which observes that 'focusing on what differentiates a group from others and defines a common identity' is likely to set up group borders that wrongly exclude' but at the same time 'to deny a reality to social groupings both devalues processes of cultural and social affinities and make political actors unable to analyse patterns of oppression, inequality and exclusion' (ibid., 218).

associations. The former would mean grouping people together according to some feature they share – eye colour or postcode – these would be mere 'combinations of people' (*ibid.,* 44). The latter would suggest members of a club, or a church group – a collective which is fundamentally voluntary. A social group, on the other hand, is marked by affinity. Young suggests Heidegger's conception of 'thrownness' – in the same way that, as humans, we find ourselves 'thrown' into the world, left to make sense of it subsequently; we are thrown into social groups, where we find an affinity with others in the same boat (*ibid.,* 46). We are not locked into these group permanently; we do, throughout life, shift from some groups (young to old, for instance). However, we do not have the same sort of control that we do in the associations we might make or join.

When considering groups, we should not define them according to sets of essential attributes – to do so is reductive and denies the likelihood of divergent values and experiences within that group. Young proposes that what defines a group is the relations in which the members stand to others. These can be understood as structural relations – relatively permanent constraints and enablements that condition people's actions and possibilities; these are relations of hierarchy and inequality – denoting differential relations of power, resource allocation and normative hegemony, e.g., class, gender and/or race (ibid., 218f.). Rather than thinking of an individual, or groups, as having certain attributes that define them, Young follows Pierre Bourdieu in considering the social world as a set of fields, each of which is constituted by structural relations of power, resource allocation or prestige. Social agents are understood in terms of their relation positions in these fields. This positioning process occurs prior to individual subjectivity – both ontologically and historically. She writes: 'persons are thrown into a world with a given history of sedimented meanings and material landscape.... We find ourselves positioned, thrown, into the structured field of class, gender, race, nationality, religion and so on' (ibid., 220). Thinking of groups in this way allows for the possibility, even likelihood, that there may be some who do not share attributes with the proposed group at large, and yet to continue to recognise that the group exists.

Young also makes use of Sartre's notion of seriality, which again allows us the ability to consider social groups without risking identity politics. In an earlier essay she wrote on this, she said, "unlike a group, which forms around actively shared objectives, a series is a social collective who members are unified passively by the objects around which their actions are orientated or by the objectified results of the material effects of the actions of others" (Young 1994, 724). Sartre offers the example of a queue for a bus, in that despite their differences, they are – for a time – united in a certain set of interests. Young proposes that the same model can be understood more substantively and been extended to broader and more fundamental categories of individuals, e.g. farmers, women, different ethnic groups, etc.

Viewing groups in this way enables us to avoid the problems of identity when we are at risk of essentialising these groups and thus excluding some from that group, as well as constraining individuals' identity. When coupled to intersectionality, we begin to see how difference might be harnessed to offer insights.

This all becomes relevant when we consider two things. Firstly, the modes of oppression and domination that groups can suffer within a society. Young identifies five 'faces' of oppression: exploitation, marginalization, powerlessness, cultural imperialism and violence (*ibid.,* 48-63). Second, the part that groups may or can play in a liberal democracy marked by pluralism.

As we have noted, considering Rawls and Dworkin's summary of liberalism, and this has been widely supported by others, a liberalism that prizes equality will focus its energies on procedural elements rather than substantive. To use Rawls' language, liberalism ought to take on a non-comprehensive stance, holding back from adhering to any expansive conception of the good, since, to do so, would inevitably favour some groups (who share that conception) to the detriment of some other groups (who do not). Instead, the focus should be on the procedural elements, ensuring that the procedures of democracy are impartial, in principle, favouring none or all.

This is where the politics of difference kick in. Impartiality is often held up as a primary point of aspiration in moral thinking – an agent considering some moral action ought, so far as she is able, to adopt a position of neutrality and detachment. Certainly, for many, to choose not to do this is held as a mark of moral failure. Young is not persuaded – this stance 'corresponds poorly to the social relations typical of family and personal life, whose moral orientation requires not detachment from but engagement in and sympathy with the particular parties in a situation; it requires not principles that apply to all people in the same way, but a nuanced understanding of the particularities of the social context, and the needs particular people have and express within it' (*ibid.,* 96).

In the first place, Young argues that impartiality – the attempt to avoid partiality or any sort of preference between different groups or parties or individuals – can only be achieved by 'abstracting the particularities of the situation' – removing, or pretending remove, one's feelings, affiliations, perspectives from our viewpoint. It is debatable whether this is possible, but what is

less up for grabs is that even once the abstraction is in place, the particularities remain (*ibid.,* 97). This results in a series of dichotomies between the universal and the particular, the public and the private, reason and the passions. Most importantly, she states: a 'universalist ideal' where differences are erased and impartiality reigns will provide cover for ideological hierarchies and threaten the exclusion of some from full participation in society (*ibid.*).

In this, Young is drawing on a postmodern critique of the way that many thinkers have sought to reason towards universal ideals and principles and away from the particular. In short, the urge is to 'think things together', in the sense of binding them, in order to 'reduce them to a unity', to 'find the universal, the one principle, the law, covering the phenomena to be accounted for' (*ibid.,* 99). Points of difference are then to be eliminated, or at least repressed, in this process, in order to locate the essence of the object in view. As we have begun to note, this impulse extends to ethical consideration. It is worth quoting Young at length here (*ibid.,* 100-101):

> "Impartial reason aims to adopt a point of view outside the concrete situations of action, a transcendental 'view from nowhere' that carries the perspective, attributes, character, and interests of no particular subject or set of subjects. This ideal of the impartial transcendental subject denies or represses difference in three ways. First, it denies the particularity of situations. The reasoning subject, emptied of all its particularity, treats all situations according to the same moral rules, and the more the rules can be reduced to a single rule or principle, the more this impartiality and universality will be guaranteed…
>
> Second, in its requirement of dispassion, impartiality seeks to master or eliminate heterogeneity in the form of feeling. Only by expelling desire or affectivity from reason can impartiality achieve its unity…
>
> Third, the most important way that the ideal of impartiality reduces particularity to unity is in reducing the plurality of moral subjects to one subjectivity. In its requirement of

> universality, the ideal of impartial reason is supposed to represent a point of view that any and all rational subjects can adopt, precisely by adopting from the situational particularities that individualize them. The impartial moral judge, moreover, ideally should treat all persons that it no longer resembles any actual, possible, view whatsoever."

The irony of this is that it often comes from thinkers, such as Rawls, who are aiming to recognise the 'fact of pluralism' and would see the 'plurality of selves as a necessary starting point' (*ibid.,* 101). Young argues, for example, that Rawls' 'original position', along with the 'veil of ignorance', masks genuine differences between participants. The 'veil of ignorance' is intended to ensure that participants, not knowing their own subsequent place in the game, propose and prefer conditions that favour equality and so do not offer advantage to one group over another (Rawls 1993, 22-28). But this veil forces us to demonstrate disinterest in not only our own concerns, but also those of others – there is to be no discussion between participants, no engaging with different parties' particularities.

As noted above, at risk from this appeal to impartiality is a series of dichotomies. Each raises issues and concerns (that Young addresses throughout Chapter 4 on the book) but I want to focus in on the one that emerges between the public and the private. The public, as presented by liberalism and liberal thinkers, is marked by the pursuit of impartiality. She writes: "modern normative political theory and political practice aim to embody impartiality in the public realm of the state" (Young 1990, 107). As laudable as this might be in certain respects – 'for the civic public to express the universal and impartial point of view of reason', resisting, therefore, the contaminants of individual or group desires or sentiments or interests, and so thus ultimately attaining a sort of unity and homogeneity – it has the consequence of pushing these facets of life into the private sphere.

The impartial, homogeneous, rational public is contrasted with the bodied, passioned dimension of the private, where much of a person's life consists – their body, their family, their relations. Aside from the basic impossibility of this idealised division – as though a rational agent were so able to leave these facets of themselves aside so easily (*ibid.,* 103) – Young argues that it has further ideological repercussions. She says it undergirds the idea that the state is neutral and provides legitimating support for it and further it perpetuates the risk of oppression by 'hypostatizing the point of view of privileged groups into a universal position' (*ibid.,* 112). If we believe lawmakers to be impartial, we are more likely to hold the conclusions they draw to be better than those drawn by others, who may not be seen as impartial. Furthermore, as we have noted, the public realm has in this way been associated with rationality, whereas the private realm – the world of family and personal relations – has been associated with feeling and sentimentality. Young notes, along with other feminist scholars, that this division feeds into the perception that certain groups within society are more fit for positions of public responsibility and more given to roles demanding impartial reason. Specifically, since the private realm is characterised, at least in part, by the family and sentimentality, and that women are the bearers of family life, it becomes a commonplace perception that a woman's place is the private sphere, whereas men, seen as rational and less prone to sentimentality, are better suited to public roles. These sorts of observations have, tended to extend beyond gender to race and culture. Furthermore, as a consequence the presuppositions of these privileged groups – most typically white, well-educated, men – becomes the unacknowledged foundation of the state. In other words, the particular of the privileged groups of society becomes universalised. Young writes:

> "Where social group differences exist, and some groups are privileged while others are oppressed, this propensity to universalise the particular reinforces that oppression. The standpoint of the privileged, their particular experience and standards, is constructed as normal and neutral. If some groups' experience differs from this neutral experience,

> or they do not measure up by those standards, their difference is constructed as deviance and inferiority....
>
> The ideal of impartiality legitimates hierarchical decision-making and allows the standpoint of the privileged to appear as universal. The combination of these functions often leads to concrete decisions that perpetuate the oppression and disadvantage of some groups and the privilege of others." (*ibid.,* 116)

In order to assert social justice, then, to pursue the endeavour of eliminating oppression and domination, it is of importance that difference is recognised and welcomed and that the priority given to impartiality is dismantled. Young notes that many liberative groups and organisations have often sought to remove the sense of difference that they possess, in the view that what is aimed towards is that they are viewed as the same those of other groups – we should no longer see colour, etc. (*ibid.,* 157). In other words, they see liberation as a sort of assimilation. While Young recognises that there have been significant gains in this approach, she proposes that there are also several dangers. Blindness to the differences held by social groups can produce disadvantage for those groups, not least because the process of assimilation necessarily demands that the previously excluded groups are expected to adopt the rules and standards of the established group. Assimilation of excluded groups enables privileged groups to ignore and obscure their own group specificity, allowing the group to maintain its view of its own characteristics as neutral. Thirdly, the negativity directed towards groups considered deviant can produce an internal devaluation in the members of those groups (*ibid.,* 164f.).

Instead, difference should be reaffirmed, and consequently that equality should be reconceived and not seen purely in terms of equal treatment – sometimes different groups warrant different treatment. A simple and uncontroversial example here would be women in pregnancy. (*ibid.,* 158). In the same way that there were disadvantages to assimilation, Young notes that there are advantages to groups affirming and asserting their own difference. Aside from simply having the

opportunity to feel pride in their own difference, this self-re-evaluation of groups forces the majority groups to view themselves as 'other', perhaps for the first time, and have opportunity to critically reassess norms and values previously invisible. In addition, it provides a basis for group solidarity against the individualism of liberalism (*ibid.,* 166f.)

Practically, then, Young argues that 'a democratic public should provide mechanisms for the effective recognition and representation of the distinct voices and perspectives of those of its constituent groups that are oppressed or disadvantaged' (*ibid.,* 184). With this in mind, mechanisms and support should be directed towards the self-organisation of groups, especially to the extent that they are empowered, policy proposals should take group perspectives into account, and groups should possess veto powers regarding any policy that has a direct impact upon that group (*ibid.*).

Young also comments on the criticisms directed at liberalism by communitarians that accuse it of individualism and of atomising society into a collective of isolated persons. She shares much with these positions, noting that there is no 'social ontology' in liberalism (*ibid.,* 228) but argues that despite their differences both communitarianism and liberalism entail a denial of difference. While liberalism sees the individual as a 'solid, self-sufficient unity not defined by anything or anyone other than itself', communitarianism suffers by 'positing fusion rather than separation as the social ideal' – they see the individual either as an individual as in liberalism or as part of a community marked by sameness, an either/or. Instead, Young suggests that this dichotomy should not be seen as exhausting the possibilities. Individuals are members of groups (plural) that intersect and overlap and are distinct, not simply single communities (*ibid.,* 229).

Instead, Young proposes 'city life as a normative ideal' (*ibid.,* 236). In cities people interact with spaces and institutions that belong to everyone and no-one in particular; there is no sense of simple unity or commonality that is able to swallow a person up. Yet, cities are characterized by

groups that share affinities – families, networks, associations, neighbourhoods, and a person will be a part of any number of these and yet still extend beyond the familiar and engage with people that remain outside. In cities people are forever depending upon the 'activities of seen and unseen strangers who mediate between oneself and one's associates, between oneself and one's objects of desire' (*ibid.,* 237). City life has four virtues. (1) It allows for social differentiation without exclusion. City life allows for anonymity within which groups and affinities are able to form and develop and even splinter into new affinities, and these overlap and intermingle without ever facing the risk or expectation of developing into a homogeneity. (2) Cities promote variety, not only of groups but also of spaces. Spaces will be used by various groups, each inhabiting the space without ever truly owning it. This renders them more inclusive, more anonymous and safer. (3) There is an 'eroticism' to cities in the sense of enabling an 'attraction of the other'. Cities, on account of the almost infinite varieties of groups and outputs of those groups, there are so many opportunities to encounter the new. This is opposite of community in that there we affirm the familiar. In cities, we discover and are attracted to the unfamiliar. (4) Cities allow for publicity. Young writes: 'cities provide important public spaces – streets, parks, plazas – where people stand and sit together, interact and mingle, or simply witness one another, without becoming unified in a community of 'shared final ends'' (*ibid.,* 238-240).

Young promotes a position of participatory democracy in *Justice and the Politics of Difference,* where she writes that in participating in the democratic process this way, people will be in a position to persuade one another if their claims are seen by others to be promoting justice, for if they were not, those likely to lose out will be able to respond and challenge them. With a genuinely participatory structure, 'actual people, with their geographical, ethnic, gender and occupational differences, assert their perspectives on social issues within institutions that encourage the representation of their distinct voice' (*ibid.,* 93, 116). Subsequently, she adopted what might be called a hybrid approach to deliberative democracy, accepting in principle a

discussion-based model, while holding against it some key criticisms and proposing instead what she calls a 'communicative democracy' (Young 1996, 128).

As for deliberative democracy, she argues that while it is a clear improvement on aggregative, what she calls interest-based models of democracy[253] (*ibid.,* 120), it faces two challenges. First is that it is fundamentally exclusionary. The ideal of deliberation is that it is approached with an open mind and conducted with rational arguments, such that the better argument will win out in the end. But the assumption here is that it takes place in the absence of economic and political power – that deliberators have equal access to debate, and it is only the force of their argument that matters. This is not the case – deliberators come with different social and cultural positions. Given that the expectations as to what counts as proper argument – the form, rules, expectations are argument not neutral but are pre-determined. They have been shaped by civic arguments and debates that have already been played out – as Young says, 'the norms of deliberation are culturally specific'. Moreover, deliberation is competitive in that there is a winner, and the winner takes the initiative in shaping future deliberation (*ibid.,* 123). Second, one way or another, deliberation assumes a form of unity, which is exactly what is being denied. Some theorists of deliberative democracy hold that deliberation operates by shared foundational pre-suppositions – that the debate operates on the basis of ideals previously acknowledged by all parties. Others, recognising the weaknesses of this position, frame unity as the end-goal of deliberation. Eventually, once the discursive process has been completed, parties will reach a consensus. In other words, the parties' difference will have been transcended. The trouble is that the end point or common good aimed towards will be more likely to suit the aspirations of groups with more established social power and so privilege will be perpetuated (*ibid.,* 125-126).

[253] On account of them being primarily concerned with totting up the sum of individuals' preferences, which are essentially reflections of their own account of what is in their interest.

As we have seen 'Communicative' democracy shares much with deliberative democracy as typically conceived, but Young proposes two moves that she considers addresses some of the issues faced. Firstly, she proposes that we should consider difference not an obstacle, but a resource – a factor that will aid and enable deliberation, not stand in the way. She considers that there are three ways 'preserving and listening across … differences of position and perspective' might transform the encounter (*ibid.,* 128):

> "(1) Confrontation with different perspective, interests and cultural meanings teaches me the partiality of my own, reveals to me my own experience as perspectival. (2) Knowledge that I am in a situation of collective problem solving with others who have different perspectives on the problems and different cultures and values from my own, and that they have the right to challenge my claims and arguments, forces me to transform my expressions of self-interest and desire into appeals to justice.... (3) Expressing, questions and challenging differently situated knowledge… adds to the social knowledge of all participants"

She also suggests that widening what ought to be included within the frameworks of dialogical reasoning will offer benefit. She offers three examples. First, she considers greetings, by which she means the preliminaries that frame and set up deliberations. While we may say that it is unnecessary, that nothing is truly said – there is no real assertion being made – it nothing provides a basis by which trust and respect can be built. Second, she points to rhetoric, which is intended to point to language and argumentation that is not immune to emotional appeals. Typically, deliberative democracy favours language and reasoning that is separated from emotion and sentimentality, that is impartial, but this can be cold and fails to realise the values that are in play, especially between interlocutors with significant variances in values. Rhetoric also acknowledges the degree to which communication is situated, recognising the place of the speaker and who is being spoken to, and their relative positions. Finally, Young encourages

storytelling. Through presenting narratives understanding can be established and built through the conveyance of experiences. They can also prompt and facilitate sympathy as well as revealing and expanding the sources of values, culture and meaning (*ibid.,* 128-132).

In summing up her view of communicative democracy, Young concludes that deliberative must include more – it requires openness to a 'plurality of perspectives, speaking styles and ways of expressing the particularity of social situations' (*ibid.)*.

Chantal Mouffe

A second approach can be drawn from Chantal Mouffe, a representative of what is often termed agonistic democratic theory. As a representative, of course, she is not alone and there are several that might fit the bill, and, of course, there are differences from one thinker to another, as Wenman's (2013) overview of the field makes plain. To summarise the idea, 'agonistic' stems from the Greek *agon* indicates conflict or strife. Wenman proposes that the common notions that is found amongst proponents of the position are three: 'a conception of constitutive pluralism, … a tragic vision of the world, … and a belief that conflict can be a political good' (Wenman 2013, 28).

To briskly unpack these, Wenman is keen to distinguish what is meant by pluralism from what Rawls calls the 'fact of pluralism'. To Rawls this simply suggests that there will be many different, reasonable religious, philosophical and moral views and that from these 'people will have many worthwhile aims and pursuits in a well-ordered democracy … and many of these aims will be equally worthy of pursuit' (Freeman 2007, 124). Agonists reject the idea that these values can be reasonable or mediated by rational principles but also argue that plurality is not only identifying differences between people and groups but is a consequence of 'the circumstances that constitute the condition and identity of those groups and individuals' (Wenman 2013, 29). Values are neither rational, they are incommensurable and are often

irreconcilable; they are far more fundamental than Rawls appears to allow – pluralism is not the outcome of identities but the basis for the identities. Wenman puts it 'pluralism is a conditioning quality for political reality' (*ibid.,* 31). By tragedy, Wenman considers that through pluralism 'conflict, suffering and strife are endemic in social and political life' and this is 'not a temporary condition' (*ibid.,* 35). A little later, he adds that an authentic view of tragedy proposes that there can be no action without loss – any move we make towards one set of ends run the risk of loosening our grip on other sets (*ibid.,* 44). Despite appearances, the conflict that follows from pluralism ought not to be considered necessarily a bad thing. Wenman quotes Crick as suggesting that the sort of conflict proposed by agonism 'enables us to enjoy variety without suffering either anarchy or the tyranny of single truths' (Crick 1964, 26, quoted in Wenman 2013, 46, n.35). Agonism is not to be understood as antagonism – the latter suggesting a 'mutually destructive hostility' contrasted with the former as 'constructive forms of rivalry (Wenman 2013, 47).

Mouffe addresses agonistic democracy as a corrective to failures that she sees in liberalism and in deliberative democracy more specifically. Like Young, she considers deliberative democracy to be 'commendable' in its attempt to overcome the weaknesses of the aggregative model of democracy that prioritises self-interest and sees democracy's job as to tally up individual preferences (Mouffe 1999, 745). She sees the heart of deliberative democracy as to argue that it is possible, where deliberation has taken place adequately, to find points of agreement in the face of pluralism that would be both rational, and as such defend liberal rights such as freedom of expression and conscience and equality, and democratically legitimate in the sense that it would assure popular sovereignty (Mouffe 2000, 193). In sum, Mouffe sees deliberative democracy as attempting to ground legitimacy on rationality, forming a distinction between 'mere agreement' (as we would see in the earlier aggregative models) and 'rational consensus'. To achieve the latter, the values of the procedure must include impartiality and equality, openness, lack of coercion and unanimity, and if these are pursued, the discussion will lead

towards generalisable interests, ultimately to the agreement of all. Where that agreement is sought, the outcomes will have legitimacy (Mouffe 1999, 747-748). However, the problem at root with liberalism, which remains the case in the dominant forms of deliberative democracy, she sums up as that it 'is characterised by a rationalist and individualist approach which forecloses acknowledging the nature of collective identities. This kind of liberalism is unable to grasp the pluralistic nature of the social world, with the conflicts that pluralism entails; conflicts for which no rational solution could ever exist' (Mouffe 2005, 11).

A key distinction that Mouffe makes from the outset is between 'the political' and 'politics'. The former reflects the 'dimension of antagonism', which can be found throughout human relations, whereas the latter suggests the 'ensemble of practices, discourses and institutions' designed and set up to establish and organise order and human co-existence. Politics is always under the cloud of the political, and so is always conflictual (Mouffe 2000, 203). This observation forms the backdrop to her analysis. For instance, it feeds her baseline criticism of individualism and rationalism, as two of the fundamental characteristics of liberalism. Individualism fails to grasp the political insofar as it views the individual as the primary point of reference, excluding the political. Rationalism fails in that its drive for a rational consensus seeks to negate the power of the political, which is bound to fail. There will always be an 'other', voices from beyond the consensus, antagonistic to its claims (Mouffe 2005, 11-12).

Mouffe follows Schmitt in recognising that political identities are characterised by a we/they relation, as are all identities – they are marked by demarcations where the lines that mark differences become evident – and Schmitt concludes that, in the field of political identities, this distinction is seen as a friend/enemy, and so is the basis to the antagonism that is at the heart of the political (*ibid.,* 14-15). (As we shall see below, Mouffe, does not totally agree with Schmitt's assessment that political identities necessarily become framed in this way – but that there are other modes in which they can be expressed.)

A further point is that she sees the concept of hegemony as central to addressing the problem of 'the political'. In an earlier work, she defines hegemony by reference to Gramsci:

> "[the] act [of hegemony] can only be performed by collective man, and this presupposes the attainment of a 'cultural-social' unity through which a multiplicity of dispersed wills, with heterogeneous aims, are welded together with a single aim, on the basis of an equal and common conception of the world" (Gramsci cited in Wenman 2013, 187)

Mouffe states:

> "To take account of the 'the political' as the ever present possibility of antagonism requires coming to terms with the lack of a final ground and acknowledging the dimension of undecidability which pervades every order. It requires in other words recognising the hegemonic nature of every kind of social order and the fact that every society is the product of series of practices attempting to establish order in a context of contingency" (*ibid.,* 17)

Where deliberative democrats have sought to establish rational consensus through deliberation, they are asserting a social objectivity that is fundamentally political and by its nature exclusionary. Mouffe recalls Derrida's employment of the idea of the 'constitutive outside' – by establishing what is included, we also observe what is not (Mouffe 1996, 247). The coming together, then, of objectivity and power, is what is understood as hegemony here (Mouffe 2000, 202). The consensus sought by deliberative democrats does not recognise the range of 'other possibilities that have been repressed and that can be reactivated' (Mouffe 2005, 18; see also Mouffe 1999, 757).

The goal, then, of agnostic democracy as conceived by Mouffe is first to acknowledge that there is no 'final ground' to be found, such that matters will be concluded – there will always be further antagonism, further voices from outside the 'rational' mainstream, voices that see

others outside themselves as the enemy. By the same token, there will be an ongoing provisionality – conclusions proposed in democratic deliberation, however it is framed, will not reach a consensus (Mouffe 2005, 29-30). Also key is the transformation of the dynamic of friend/enemy, as seen by Schmitt, to move from antagonism, to agonism; to move from being an enemy to being an adversary. Rather than seeing each other as enemies, where there is no common ground, opponents ought to be seen as adversaries where they see each other as sharing a 'common symbolic space' and as each holding a legitimate claim to engagement (*ibid.,* 20).

Secondly, Mouffe directs us via Wittgenstein to think of practices over procedures. Where deliberative democrats point us towards the procedures for political discourse, Wittgenstein, says Mouffe, reminds us that for there to be an agreement on principles and opinions there must first be some agreement on the language used, and this demands agreement on the forms of life in play[254] (Mouffe 1999, 749). Two things stand out. The first is that when Wittgenstein speaks of a form of life, a key element here is the notion of practice – what is done – not necessarily what is said. The second is that the language game that corresponds to a form of life is shared within the relevant community. Mouffe is indicating first that amongst disparate groups there may not be any agreement – they may have separate and incommensurable understandings of the issues in play. Moreover, she proposes that further than our forms of life and their language games being manifest in our acting, and not our saying, there is a limit to how much discourse is really reliant upon reason. She utilises Wittgenstein in saying that political convictions are more like a 'passionate commitment to a system of reference. Hence, although it's belief, it's really a way of living, or a way of assessing life' (Wittgenstein 1980, 64e,

[254] 'Forms of life' is a term employed in a handful of key places in Wittgenstein's later work, and like lots of his writing, it has prompted much debate. Grayling summarises the term as such: "it is the underlying consensus of linguistic and non-linguistic behaviour, assumptions, practices, traditions, and natural propensities which humans, as social beings, share with one another, and which is presupposed in the language they use; language is woven into that pattern of human activity and character, and meaning is conferred on its shared outlook and nature of its users" (Grayling 2001, 97).

quoted in Mouffe 2000, 201). What underlines antagonism between individuals and groups is less a matter of what can be subject to rational debate, and more about the passions (Mouffe 1999, 755). The move from antagonism to agonism just spoken about, then, will be less likely as a consequence of argument, it is more likely to have the characteristics of a 'conversion' (*ibid*.).

In sum, in a manner that recalls Dewey's dictum that 'the cure for the ailments of democracy is more democracy' (quoted in Guinier 1995, 1), Mouffe concludes that we must recognise first that any consensus that emerges is the consequence of a provisional hegemony that requires some degree of exclusion, and by acknowledging this we identify the need to revise our view of the democratic public sphere. A genuinely pluralist democracy must 'make room for dissent and for the institutions through which it can be manifested… pluralist politics should be envisaged as a 'mixed-game', i.e. in part collaborative and in part conflictual' (Mouffe 1995, 756).

Charles Taylor

A further approach is found in Charles Taylor's 'politics of recognition', which notes the role that 'recognition' plays in contemporary politics, especially the close relationship that it has with the notion, and nature of, identity. Often, it is held that the latter is dependent upon the former – our identity is dependent how we are seen, recognised, by others. For this reason, it can be so damaging when we are seen incorrectly, as in the cases of racism, colonialism, or as result of patriarchy (Taylor 1994, 25f.). This is especially because our identity is often seen as something intrinsic to ourselves, something internal.

He traces the development of our idea of personal identity to the emergence of the doctrine of an inner moral sense – to live according to this would be live in a way that reflects 'authenticity' (*ibid*., 28). Taylor points to Rousseau's imploring us to listen our inner voice of nature as well as Herder's claim that we all have our own measure – our own way of being human such that we

should not mould our lives to the demands of external conformity, it can only be found within (*ibid.*, 30f.). Coming from this standpoint, identity appears separated from external factors. Democracy seems to reflect these insights in that each person, in deciding which way to vote, should follow their own lights.

Taylor also points to George Herbert Mead, who warns against thinking of the individual as monological – as a person that defines themselves in their own minds. We should recognise individuals as dialogical – from the beginnings of the acquisition of language, through the development of our whole lives, we are produced in dialogue with others (ibid., 32f.). This is not to exclude the monological, but to acknowledge that nothing is forged in isolation. Our identity, then, is not purely an internal thing, but also our background, our surroundings, our experiences – our identity reflects, amongst other things, 'where we're coming from' (ibid., 33). To be recognized is to acknowledge not only our authentic self, but also the social context that plays such a crucial part in its creation (ibid., 36). Recognition in this sense is to acknowledge identity: which is why withholding of recognition or even misrecognition may be considered forms of oppression.

As the politics of recognition, it may occur in two dimensions of our lives: the intimate sphere of our immediate lives, and the public sphere, which operates societally and politically, and where concerns regarding equal recognition are primary – and this is where Taylor is concentrating, while acknowledging that links can be drawn between the two (ibid., 37). In this sphere we can see equal recognition meaning one of two different things. It may indicate a sort of universalism, where everyone is afforded equal dignity, or alternatively, recalling his discussion of identity, it might be to recognise each person's unique identity. Key to this second sense, and what marks it as distinct from the first is that we are called to recognise the difference between an individual and everybody else – to recognise their identity as their own. Taylor says that what is key about

this approach is that 'it is precisely this distinctness that has been ignored, glossed over, assimilated to a dominant or majority identity' (ibid., 38).

In sum, these two approaches lead to conflict: either we give priority to the former approach, treat everyone equally but overlook their distinct identities, and thus run the risk of discriminating against some needs; or we give priority to the second, 'recognise and even foster particularity' and run the risk that it will violate the 'principle of non-discrimination' (ibid., 43).

This brings us back to the priorities of liberalism. By highlighting equality, especially equal dignity and rights, it typically claims that there are some universal, difference-blind principles'. This mirrors the way that liberalism favours procedural approaches over substantive – maintaining neutrality regarding questions of the good life and placing attention on how individuals are able to achieve these values for themselves. In essence, the liberal will side-step debates regarding the good life and look to ensure that political and social procedures are equitable[255]. This difference-blind approach runs the risk that it will obscure the particularity of certain cultural presumptions and biases. While Taylor concludes that the erasure of differentiation remains tempting, it is only when we are properly recognised that we can flourish as individuals, and so what is needed is some sort of reciprocal recognition amongst equals (ibid., 50f.). By the same token, choosing procedure over substance runs the risk that the views of minorities will be overlooked – and so there would be a sense in which we might say that the principles of the dissident minority were not being treated with equal respect (ibid., 57). We find ourselves facing this same conflict: adopt procedures designed to treat everyone equally, but likely fail to treat some minorities with equal respect, or adopt principles of difference that allow people to flourish, but risk some form of discrimination.

[255] This recalls Kant, in that individual dignity is grounded in a person's autonomy – including the autonomy is determine for themselves what their substantive moral principle's might be.

In sum, Taylor is proposing that liberalism incurs certain costs and amongst them is that if we pursue a difference blind approach to equality, then we run the risk of failing to recognise people and their distinct identities. Taylor ultimately invokes Fanon and suggests that to neglect the distinctness, the difference of people's identities, and to impose an image upon them that is not strictly their own is to do violence to them (*ibid.,* 65). In a society where the fact of plurality is fundamental, then there needs to be some engagement with how people and groups reflect elements of difference.

These three thinkers all highlight the importance of recognising differences across the full breadth of society without condition. Without a full scope of society, we face a qualified democracy and a narrower sense of who we are as a nation.

As commented in section 2.2.4.1., diversity is a consistent theme in the discussions regarding recommender systems. Recommenders operate on a principle of homophily, individuals desiring more of what they already like and seeking others that enjoy the same things. The fear was that recommender systems would, especially within social media environments, result in filter bubbles and echo chambers, where individuals would only be exposed to content that they were already in agreement with and so never have the opportunity to expand their horizons into new forms of content and new ideas and worldviews. As we noted, much of the panic here was overblown. People operate on multiple levels, so even if they were prone to a filter bubble in one sphere of their online activity, they were still likely to encounter alternate ideas in other spheres of activity.

There is an obvious point of connection here between the concerns surrounding filter bubbles and echo chambers and those raised by a politics of difference. Both highlight that society is made up of different voices, with different worldviews and different values – society is diverse and that anything that shuts itself off from that diversity is a problem. It is, after all, a priority of liberal societies, however they are conceived, that we must learn how to make sense of

pluralism. When we look back our discussion of diversity, we noted that there were different models: structural, source, content and exposure (Helberger 2018, 162; Trielle & Diakopoulos 2019; see also Voakes et al., 1996), corresponding respectively to the media landscape, range of media sources, diversity of viewpoints as represented in the content available, and the range of content actually engaged with. Looking afresh from the perspective of the politics of difference, we question whether these models suffice. All have their place, of course, but only content diversity reaches into the concerns raised in this section, and even then, further interrogation is demanded. There may be further modes of diversity not fully explored here. Television adverts with increased ethnic representation counts as content diversity, but this is not what is being described and sought by Young, Mouffe and Taylor so much. What is being described and sought extends deeper. Primary to the issues they raise is that liberalism's insistence on impartiality and neutrality is misplaced. Consequently, the content diversity pursued by liberals might be inadequate – it might not be sufficient to say that recommenders 'recognise, represent and reflect' the various, diverse communities. There must be more of a willingness to let those communities speak for themselves just as they speak to themselves. That the recommenders may, contrary to our usual intuitions, operate with partiality and a lack of neutrality.

One way that diversity could be conceived and promoted that would be more in line with the ideas promoted by Young and Mouffe is to extent the notion beyond genre. The discussions of diversity we have noted typically are focused on news and current affairs, for sensible reasons – they are far more pertinent to the questions that dominate the public sphere. But Young looks to promote narrative storytelling, which is far more the arena where liberalism's prioritisation of impartiality might be overcome. People, groups, communities can have the opportunity there to speak for themselves, reflecting their own values and worldviews apart from concerns of 'public reason'. Sørensen proposes that diversity will always be a challenge for recommender systems since it poses not only mathematical problems but also because it awaits answers to questions

of what diversity means, how it is expected to support democracy, what sort of democracy is to be supported, and so on – in fact, he concludes that the problem is less one of algorithms and more a problem of philosophy (Sørensen 2022, 302). Nonetheless, he suggests whether we should consider extending our discussion of it to include aesthetic as well as other considerations, which might extend beyond news and current affairs (*ibid.,* 300, 298).

A further point follows, drawing from Taylor's politics of recognition, and pointing towards the discussion of human capabilities and rights in the next section. Taylor writes that the politics of difference is, in part, about recognising people for who they are, and noting that it is only when people, or a people, are allowed to be themselves that they can flourish and fully develop. If we fail to recognize people in this way, where we try to make them fit our own perceptions of who they are, we do a violence to them. These issues recall the concerns that we raised in 2.2.4.2. about the various ways that recommenders are liable to intrude upon our privacy and autonomy, tracking our decisions and constraining our choices.

Annex 7

Questionnaire Consent Form

UNIVERSITY OF BIRMINGHAM

Thank you for agreeing to be complete a questionnaire as part of this research project into personalised media content recommendations at the BBC. Ethical standards for academic research undertaken by UK institutions require that participants who submit formal written information in the form of questionnaires are provided with information concerning how the information provided will be used and agree in writing to this procedure. This consent form is needed so that we can ensure that you understand the purpose of your involvement and that you agree to the conditions of your participation. Would you therefore read the accompanying information sheet and then sign this form to certify that you approve the following;

- the information in the questionnaires will be gathered and recorded in a summary document produced by the Project team;

- the information obtained from the questionnaire will be analysed by the project Principal Investigator and Research Associates for research purposes only;

- access to the questionnaires will be limited to the research team;

- access to the summary document will be limited to the research team, and might be shared (with names and other identifying information removed) with other academic colleagues and researchers for the limited purposes of scholarly discussion and analysis as part of the Project's academic research inquiries;

- any summary questionnaire content, or direct quotations from the questionnaires, that are made available through academic publication or other academic outlets will be anonymized in order to minimize the possibility of identification, and care will be taken to ensure removal of any other information that might enable the ready identification of the information providers or the organization with which the interviewee is affiliated;

- the actual questionnaire will be destroyed and/or deleted at the end of the research project at the earliest possible opportunity, whilst ensuring adherence to best practice scientific peer-review protocols concerning the need to verify the integrity and reliability of data sources.

By signing this form or responding with my consent via email, I agree that;

1. I am voluntarily taking part in this project. I understand that I don't have to take part, and I can stop the interview at any time;

2. The questionnaire, summary or extracts taken from it may be used as described above;

3. I have read the Information sheet (located at the end of this document);

4. I don't expect to receive any benefit or payment for my participation;

5. I have been able to ask any questions I might have, and I understand that I am free to contact the researcher with any questions I may have in the future.

_____ _____

(Date)

Name		**Role** (optional)	

Questionnaire regarding iPlayer

These questions are a mixture relatively closed questions and open questions that allow for some interpretation. One question (*) has been intentionally left open to wider interpretation still – it is intended to be provocative – I am interested in seeing what sort of answers it encourages. They spread across four broad categories: Global, Technological, Data related, and Design/user experience related questions. **I invite and encourage any elaboration and any additional documentation that anyone chooses to contribute**. That would be incredibly helpful.

Some questions I broadly know the answer to but would like it definitively stated. One of the problems I am trying to tackle in this exercise is in 'firming up' what I know – upgrading things I 'sort of know', or even 'pretty much know' to things I can assert definitively.

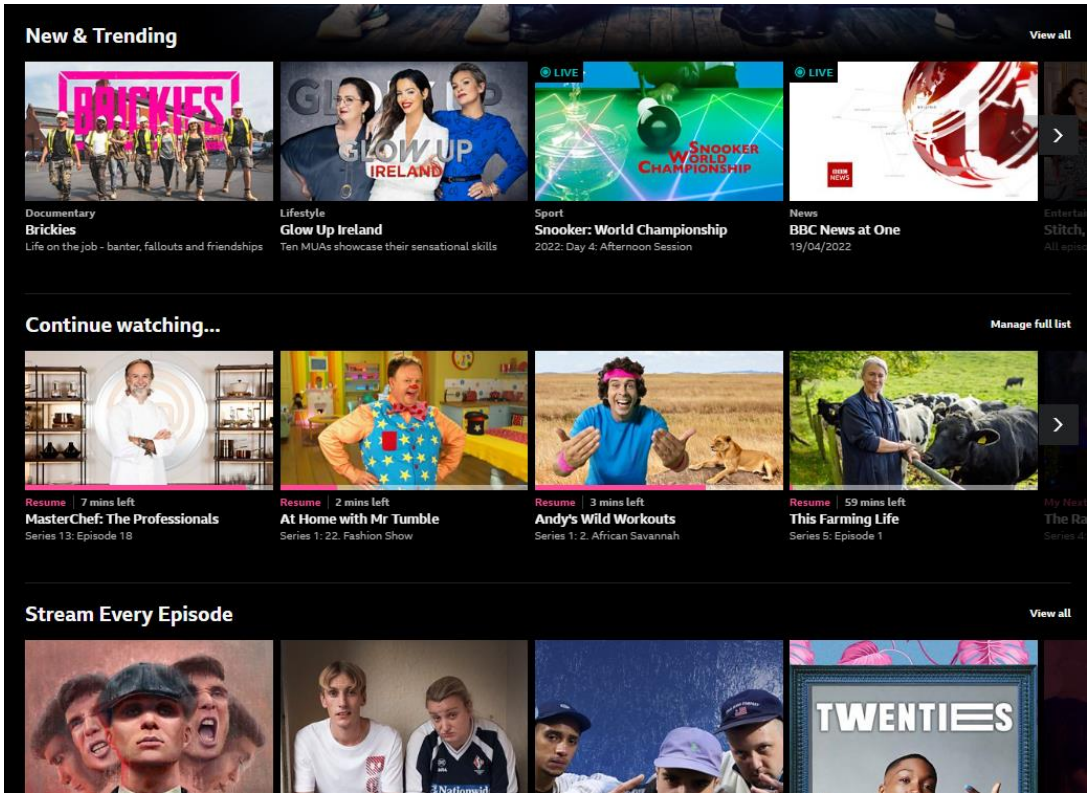
iPlayer
Global Questions
3.1 What is the purpose (or purposes) of iPlayer as a platform?
3.2 How would you describe the purpose (or purposes) of iPlayer as a recommender – what is it intended to do?
3.3 In what sense, if at all, is iPlayer a 'public service recommender'? *

3.4 Can you provide clear examples of instances where public service priorities have taken priority over generating more clicks, time-spent, and so on? (To clarify – are there instances you could point to where recommendations are generated because they serve some 'public good', rather than encouraging a person to watch a further programme or to carry on consuming content to increase time spent engaging with BBC services?)
Technological
3.5 How are the recommenders configured in the iPlayer? For instance, what technical methods are used, i.e. content-based, collaborative filtering, hybrid? How might components be configured against one another (e.g. parallel, pipelined)? *If you have any documentation outlining the workings of the recommender system – outlines or diagrams – please can you provide them?*
3.6 What input variables are used generate recommendations?

3.7 What output variable is being optimised? To the extent that the recommender seeks to promote 'relevance', can you clarify how 'relevance' is defined and measured for this purpose? Please provide much detail as possible.
3.8 How far, if at all, is the recommender configured to promote 'goods' such as novelty, diversity or serendipity?
3.9 How would you define novelty, diversity and serendipity? How do (or might) you measure them?
Design/User-experience
Background Context to the following questions: Thinking about the user-experience of using iPlayer: when I log into iPlayer I see rows of content presented according to certain criteria. For instance, my iPlayer presents content according to the following: o New & Trending o Continue Watching… o Stream every episode o If you liked 'x' o Most popular o Recommended for you And so on…
3.10 Would another user see the same list of categories as those described above?

3.11 Of the content a user might see when logged into iPlayer, is any of this **human curated**?

To clarify what I mean in this question, I will illustrate it by reference to the following screenshot



By content, I mean primarily the individual programmes presented on iPlayer (for instance, the eighteenth episode of 'MasterChef: The Professionals'), but it would also refer to collections of programmes, such as a series or collection of series, such as presenting all episodes of 'Peaky Blinders'.

When I ask whether any content presented is human curated, I mean has any human, for example, an editor or developer, made an explicit decision that some content should appear in a particular fashion on my iPlayer (presumably for all people – such as to say, for instance, that some specific piece of content ought to be promoted – perhaps under the 'New & Trending' heading)?

By contrast, when I say machine curated, I mean, in the first instance, content, the presentation of which, no human made an explicit decision regarding. It's presentation on my iPlayer was due to some automatic process. Within this definition, I consider there are three variations worth noting:

- Presented by the machine, but not personalised in any way (e.g. 'most watched')
- Presented by the machine, personalised by some automatic process (e.g. 'continue watching')
- Presented by the machine, personalised by some algorithmic process (e.g. 'recommended for you')

3.12 Which of the content on iPlayer is machine curated, as opposed to human curated, and what are the rough proportions between machine: human curated content? Similarly, how much content is *personalised* to the user's profile, as opposed to presented according to some generalised metric, such as simply what has gained the most views?
3.13 Is it obvious to the user which elements of iPlayer content (whether the content itself, or the content block it is part of, i.e. 'stream every episode') is curated by a human and which is personalised by being generated by a recommender?
3.14 Is iPlayer content mixed up (curated side-by-side with system generated)?
3.15 Can a user switch off personalisation for iPlayer?
3.16 Is there any option for a user to prioritise machine recommendations on iPlayer over human-curated recommendations and vice versa?
3.17 What, if any, sort of explanation or account is given to the user regarding the decision-making process that lies behind the recommendations given in iPlayer?
3.18 Is a log-in needed to use iPlayer?
3.19 (If 'yes' in 3.18) Why is a log-in needed to use iPlayer?
3.20 What does the log-in to iPlayer consist of?
3.21 Would a user be expected to have a single log-in that would operate across all platforms or is the log-in likely to be specific to iPlayer?

Data (These questions overlap a little)
3.22 Can the user access iPlayer without having my data collected? Can the user refuse consent?
3.23 Is the data gathered by all of the respective log-ins and all the related activities pooled together, as in a single, integrated BBC-wide dataset? (Such that data gathered from iPlayer might be used to generate a recommendation in Sounds?)
3.24 Are there separate datasets gathered and used by different platforms (this is iPlayer data for iPlayer purposes; this is Sounds data…)?
3.25 What data is collected by iPlayer? (Please include and note whatever behavioural data is collected and as specifically as possible)
3.26 What data does iPlayer use to generate recommendations?
3.27 Is there any data collected by iPlayer that is not used in generating recommendations?
3.28 (If yes in 3.27) What is that data used for?

Dear Sir/Madam,

We would like to invite you to participate in an interview aimed at gaining a greater understanding of the use of personalised media content recommendations and the role of the BBC. This Information Sheet will provide you with details about the project, the purpose of the interview, the interview process and how your data will be treated.

About the Project

The project is entitled: How can the BBC deliver data-driven content personalisation responsibly? It is a joint project between the University of Birmingham and the BBC. It is funded by the AHRC and is subject to a partnership agreement between the partners which includes provides to ensure that any confidential information pertaining to the BBC is kept confidential. The study is led by Prof Karen Yeung, an Interdisciplinary Professorial Fellow in Law, Ethics and Informatics at the Schools of Law and Computer Science, University of Birmingham, and is being conducted by PhD candidate James MacLaren. The lead BBC contact for the study is Laura Ellis, Head of Technology Forecasting.

The project seeks to consider how the BBC could use algorithmically driven recommender systems to provide personalised media content recommendations responsibly. We know that these can offer substantial user benefits, most notably tailoring content to users' interests, but they may also have potentially profound consequences. These risks, legal and ethical, are still poorly understood, yet are particularly acute for the BBC, because such practices directly implicate its core duty, as the nation's public service broadcaster "to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain." This project in investigating how the BBC can utilise AI to deliver personalised media content recommendations responsibly will examine how to do so lawfully, ethically, value-sensitively (in that we recognise that this implicates multiple values which this project will identify, investigating the trade-offs involved and implications for the BBC's general Charter obligations) and practically.

Purpose of the Interview

Part of the project's investigations will involve conducting Interviews with BBC staff in order to gain further insight into the nature of, as well as the potential benefits, risks and challenges, of applying algorithmically driven recommender systems to the BBC as a public service broadcaster. The aim of the interviews is to harness the expertise of leading practitioners, particularly those at the forefront of engaging with developing these techniques at the BBC. It is hoped that these interviews will provide invaluable, contextualised primary data to support the secondary data obtained from academic and grey literature.

The Interview Process

The interview will take approximately 30-60 minutes to complete. Interviews will be conducted over the phone, in person or by Skype, depending on the preference and availability of the interviewee. The interviews will be recorded, and later summarised and analysed as part of the research process. Participants will asked to provide written consent prior to interview by signing the attached interview consent form. Participants have the right to withdraw their consent and to withdraw from the interview at any stage of the interview process although we do not anticipate that there will be any material risks involved in participating in the interview.

Treatment of interview data

We recognise that there might be information of a commercially sensitive nature provided, or touched upon, during the interview discussions. With this in mind, all data obtained in the interview will be treated as confidential and handled in compliance with applicable data protection laws and regulations. This project is in the process of applying for University of Birmingham research ethics approval (ERN_18-0390) which includes an obligation to refrain from making any public reference to comments of participants (or agencies to which they are affiliated) in connection with this project without their prior written consent. With this in mind, the research report and other research outputs will not mention the names or individual participants or of the organisations they represent. However, given the relatively small size of the group of participants who are likely to meet our interview criterion, we cannot provide complete assurance of anonymity of interviewees for the purposes of this project. Data collected from the interview will be stored securely on the University of Birmingham servers and will be processed by our team for research purposes only. The actual recording will be destroyed at the end of the research project

Questionnaire regarding Concerns with Recommender Systems

General Context:

A survey of the literature regarding recommender systems throws up a number of concerns. This questionnaire is interested in investigating how much the BBC is aware and responsive to these worries. I have grouped them into four broad sets, within which I have marked out some more specific issues:

- Issues of Social Cohesion
    - Filter Bubbles and Diversity
    - Recommender Systems and Social Benefits
- Impacts on Personal Lives
    - Bias issues, stereotyping and discrimination
    - Impacts on our sense of self and autonomy
- Human Rights Issues
    - Data & Privacy Issues
    - Transparency and Accountability
- Impacts on News, Journalism and Public Service Media

In all, there are fourteen concerns. Throughout this questionnaire I will briefly outline the concern before raising some questions. The questions will mostly be open and allow some interpretation. I invite respondents to answer the questions as they see fit, but I encourage them, wherever appropriate, to add any additional information that might clarify or add colour to their answer. By the same token, if a respondent feels they have nothing to say to a question, they should feel free to skip it.

Issues of Social Cohesion

Filter Bubbles and Diversity

6.1. Significant attention has been given the concept pair of filter bubbles and echo chambers. The first proposes that users, by having content tailored to their specific interests and worldview, will risk having all other content – and thus competing interests and insights – filtered out of their feed, leaving only only a singular worldview; the second suggests that people will seek out people of similar values, such that they risk being surrounded by people, who rather than offering competing values, will simply echo their own back at them. While the empirical foundations to these have been questioned and doubts have been raised, some concerns remain – specifically for those at the margins, who are already at risk of radicalisation or who lack the familiarity or capability to navigate through the media landscape.

While filter bubbles have been found to have less impact than was previously feared, people less familiar with and/or less capable of navigating the media landscape can still be vulnerable.

Has the BBC taken any measures to help educate people to be familiar and navigate successfully the media landscape?

Is it currently planning to take some concrete action to assist users in this way?

6.2. At the heart of the fears associated with filter bubbles and echo chambers is the issue of 'diversity', and this is seen as a clear good in relation to recommender systems and something that ought to be encouraged. The problem is how we are to define diversity, especially how it might be translated into a metric that a recommender system might be able to promote. It might be that multiple definitions need to be maintained simultaneously (for instance, models prioritising both individual and aggregate versions).

The BBC Charter holds as one of its Public Purposes that the service must reflect the diverse communities of the UK.

Does the BBC, and the teams responsible for relevant personalisation projects, subscribe to any particular definitions of diversity?

What has been the experience of demonstrating diversity in recommendations, such that it is evident to a user?

What metric(s) are used to measure and assess diversity in recommendations?

What would success in this respect look like?

Recommender Systems and Social Benefit

6.3. Recommender systems are not geared to consider the social impacts of what they are promoting, especially not in commercial examples. Issues of truth or of social well-being are often neglected in favour of maximising reach or traffic – content being promoted for the benefit of the organisation at stake, not for wider societal needs.

Again, the Public Purposes as laid out in Charter identify a number of objectives, some of which could be described as social benefits (e.g., understanding, engagement, education).

How does the BBC's use of recommender systems work to encourage these benefits?

Impacts on Personal Lives

Bias Issues, Stereotyping and discrimination

6.4. Bias issues within machine learning technologies have been well documented and may appear at multiple entry points, including in the ongoing management of systems already running. Bias may impact in a similarly wide range of ways – in what is promoted or kept hidden, what is made available, what is denied – and may be experienced in a number of ways, whether and how groups or individuals might be privileged or disadvantaged.

What does the BBC, and any relevant team, do to ensure that unlawful bias is observed and managed in such a way that potential negative outcomes are limited? What safeguards are in place?

6.5. An entirely related question concerns notions of fairness – particularly regarding fairness for whom? For individuals, producers? But also whether we should consider fairness in relation to equality of treatment or equality of outcome. Finally, we should again examine the possible links in the decision chain with a view to scrutinising fairness dimensions.

To what extent is 'fairness' a priority for the BBC in respect to its media content personalisation?

How is 'fairness' defined and understood for this purpose?

How is fairness demonstrated in the various decision-making stages undergone in the development and deployment of recommender systems?

Impacts upon our sense of self and autonomy

6.6. Technologies shape and influence us, often without our being aware of it. The ways that recommender systems impact us home in on the related and over-lapping dimensions of autonomy and identity. By narrowing our choices for us, they deny us the opportunity to browse and sift for ourselves, and while this might often be a point of convenience, these activities can have a constraining effect on the development of our beliefs and desires, ends and values.

One of the themes that emerge in discussions regarding recommender systems is that they can have a constraining effect on our personal autonomy and development. For instance, by short circuiting the choosing process, they might limit the scope of our choosing.

To what degree has that this insight been observed and considered by teams working on recommender systems?

6.7. There are issues raised by the relationship between the 'self' as profiled and the 'real self' as such. There are disconnections between the two – one will not be the same as the other even if it is made to act as a proxy for it. There are temporal dimensions: the real self is dynamic and ever-changing, whereas the profiled self will at best lag behind, if not tend towards the static. Again, this disparity risks leading to a self-fulfilling prophecy of stagnation – continuing to hold a self to a profile that might have been outgrown.

[Following from the questions relating to data in the section above]

I. Once data has been gathered regarding a user (from whatever sources), what happens to that data – what is done with it?

II. Specifically, how responsive is it to changes for the user? Do you follow up with the user as to whether any information volunteered has changed?

III. How dynamic is the 'profile' that associates with a user?

6.8. Recommender systems have often been viewed as a species of 'nudge' technology – they are intended to promote certain ends and so prompt certain behaviours. Recommender systems are typically set up with the ends of the organisation in mind – to produce more clicks, time spent, etc. – these might not be in the users' best interest. By the same token, recommender systems tend not to have clear metrics for ethical recommendations – such that they might encourage users to behaviours that are inappropriate (recommending tobacco products to ex-smokers, counter-productive content).

All design decisions are to some degree deliberate. All framing of choices prioritise some sorts of outcomes. Recommender systems, even without necessarily intending to, offer a 'choice architecture' to the user and so 'nudge' users towards some outcomes over others.

How have the choice architectures of the BBCs platforms that include recommendations been designed and with what outcomes in mind?

Human Rights Concerns

Privacy & Data

6.9. Recommender systems depend on great quantities of data. This poses concerns since some of this data is personal, revealing personal details as well as habits and behaviours – some of which people might prefer private. Data might be sold, shared or stolen, or used for purposes unforeseen, especially if this is justified by consent. The meaningfulness of user consent has been brought into question by discussions of 'consent fatigue.

How, if at all, does the BBC act to minimise 'consent fatigue'? How confident is the BBC that consent given by users is 'meaningful'?

6.10. Issues of data asymmetry raise questions of how organisations who use recommender systems are deploying these systems and with what end, given that they have so much potential influence upon society and are so difficult to scrutinise.

Under Art. 5, 12-22 GDPR, the data subject is entitled to request several things from the data controller, including information regarding contact details, the purposes for which data has been collected, as well as the data gathered.

How much is this volunteered directly to the user of BBC recommender systems, and how much are users expected to request?

And does the BBC respond to data subject access requests?

To what extent, if any, does the BBC make available personal data to users beyond that required by law?

Transparency and Accountability

6.11. Recommender systems, founded as they so often are on machine learning technologies, are often characterised as being opaque and as such difficult to hold accountable for the predictions that they make. Machine learning algorithms are typically correlative, inferential and probabilistic and so their inner workings often attract the metaphor of a 'black box' – the workings of which are obscured, even to the algorithms designers themselves. This is often compounded by algorithms being given proprietary protection – as private property to be guarded for commercial reasons. Because of all this, examining and scrutinising the processes that ultimately generate recommendations is difficult; and similarly, explaining them is hampered, despite it having a number of benefits.

To what extent does the BBC consider it necessary or desirable to offer explanations to users of their recommender systems and if so, why?

How much, if any, such explanation is currently given to users, and how much detail is considered appropriate? (And if a person asked for more detail..?)

Impacts on the News, Journalism and Public Service Media

The points above are applicable generally to recommender systems of many different types, whether commercial or in the case of media content delivery. The points in this section are focused more explicitly on recommender systems put to use in news personalisation and within public service media contexts.

6.12. The shift from traditional news media to media personalised and distributed through recommender systems has been impactful. Historically, news media organisations were gate-keepers and agenda-setters – they decided what was news, which stories to publish, how to manage the resources that they had and so on, according to so-called 'news values'. The move to news personalisation has changed this – journalists and editors are now guided by the metrics that fuel the recommender systems. In other words, because they can now see, in clear numbers and in real time, who is reading what and when, the decisions that were being made have been superseded and this impacts the editorial decision-making process. While this might be seen as beneficial – it jettisons the old paternalism of legacy media – it also feeds into news being what the audience wants to hear, rather than what they ought to hear - what it might be their democratic duty to hear.

How much are BBC editors and producers driven by data following the quantifiable performance of content, by which I mean views, clicks, time-spent generated and accumulated on recommender systems?

To what extent are BBC editors still governed by news or public service values?

In your view, has the BBC ceded too much editorial discretion to machines via algorithmic data?

6.13. It also represents a shift from the universalism at the heart of public service principles. There are different interpretations of what is meant by universalism, but whichever way you cut it, the principle is lost in relation to recommender systems. Personalisation tailors media content to the individual, so the opportunity for universally shared content and experiences is diminished significantly. Universalism can also be understood as ensuring that there is content for all – not necessarily the same content but that all sectors of society will have content that reflects their needs and interests. Recommender systems work by finding similarities between content and users, drawing towards a standardisation, and becoming less likely to cater to smaller pockets of society. Finally, by the same measure, universalism can be understood as being representative – that content reflects that diversity of society; but again, standardisation stands as a limit to that.

Like diversity, 'universalism' is a term considered central to public service models that admits different understandings. For instance, it might point to ensuring that there is universal coverage, or that content is suitable for a universal audience, or that content is produced that meets the needs of the wider population.

How does the BBC understand the value of universalism in its operations?

Does the BBC recognise any tension between the operation of recommender systems that often results in the standardisation of content and the principle of universalism?

How, if at all, does the BBC reconcile those tensions?

6.14. Recommender systems are governed, at least by default, by the logic of consumerism. The user is a consumer who is to watch what they want to watch, as much as possible how they want to watch it. Standing in contrast to this is the role of the citizen who stands as part of the political and cultural life of their community and holds rights and privileges as well as responsibilities to that communities. As such the role of the user as citizen is easily overlooked by recommender systems.

How does the BBC promote the idea of its domestic users as citizens (as opposed to consumers), specifically in relation to the development of recommender systems?

How might recommender systems be used to promote the rights and responsibilities of citizenship?

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