

Ofcom Annual Plan 2012/13

BFI response to consultation

February 2013

Summary

1. In this response to the consultation on the Draft Annual Plan, we set out our top-line views in relation to Ofcom's specific priorities for 2012/13. The most important points that we wish to highlight are:
 - In its work relating to superfast broadband infrastructure – and in particular its plans to publish benchmarking data – we would encourage Ofcom to provide greater clarity in the definitions of broadband speeds, as different levels of what are loosely referred to as “superfast” broadband will have very different implications for the range of services that are feasible, particularly for video content such as films.
 - The BFI welcomes Ofcom's plans to monitor and report on developments in the pay TV market for film. While we anticipate future growth of video-on-demand services, their future prospects remain uncertain, and it will be important to assess over time the extent to which such services become competitive with those from existing companies.
 - Policies and interventions to promote innovation and the efficient use of spectrum should not undermine the strength of the DTT platform, which delivers near-universal low-cost access to PSB content, including films.
 - As part of the licensing of Channels 3, 4 and 5, Ofcom should secure a long-term settlement with regards to the contribution from broadcasters to the National Television Archive. This would enable the BFI to proceed with upgrade plans that will reduce the costs to all parties and avoid the need for time-consuming annual negotiations.
 - The BFI welcomes Ofcom's work in relation to local TV. In the coming months, the BFI plans to engage with local TV providers to explore mutually beneficial partnerships.
 - The BFI welcomes Ofcom's new requirement to report on online copyright infringement and its related work in this area. We would be pleased to have further opportunities to engage with Ofcom to discuss what information it would be most useful to capture.
 - Ofcom's approach to media plurality should not be restricted to the provision of news and current affairs, but should also reflect the value of plurality on social and cultural grounds.

Introduction

2. The British Film Institute (BFI) is the lead organisation for film in the UK and, since 2011, has combined a creative, cultural and industrial role as a Government arm's length body and distributor of National Lottery funds. Its key priorities are to support a vibrant UK film culture by investing in film education, audience access, filmmaking and film heritage. Founded in 1933, the BFI is a registered charity governed by Royal Charter. The BFI welcomes the opportunity to respond to Ofcom's consultation on its 2012/13 Annual Plan.

3. In October 2012, the BFI published ‘*Film Forever, Supporting UK Film 2012-2017*’, which set out its strategy for the next five years, following an extensive industry consultation. It described the activities underpinning the BFI’s three strategic priorities:
 - (i) Expanding education and learning opportunities and boosting audience choice across the UK
 - (ii) Supporting the future success of British film
 - (iii) Unlocking film heritage for everyone in the UK to enjoy.
4. With our broad remit relating to film and the moving image, the BFI’s objectives overlap with Ofcom’s priorities and work plans in a range of areas, as Table 1 illustrates. The table also shows how these areas link in to the strategic priorities in ‘*Film Forever*’. We look forward to engaging with Ofcom on these issues over the coming year.

Table 1: Linkages between components of Ofcom’s work and BFI objectives

Component of Ofcom work plan	Linkages with BFI strategic priorities
PSB Review	Boosting audience choice: TV (free and pay) is a key platform for viewing films. Importance of healthy competition between services, including a strong free-to-air platform available to all households
Relicensing of Channels 3, 4 and 5	
Clearance of spectrum used for DTT	
Delivery of movies on pay TV services	Unlocking film heritage: Maintenance of appropriate contributions from broadcasters to the BFI National Archive
Licensing of local TV services	Unlocking film heritage: Potentially exciting new opportunities for the BFI to collaborate with local TV operators to distribute content from UK archives
Superfast broadband	Boosting audience choice: Support for new video-on-demand (VoD) services that make a large and diverse range of films available to audiences across the UK
Traffic management and net neutrality	
Online copyright infringement	Supporting British film: Importance of interventions to prevent copyright infringement, including Ofcom’s role in implementing DEA provisions
Use of spectrum by PMSE sector	Supporting British film: Importance of safeguarding needs of PMSE users in audiovisual sectors
Media literacy	Expanding education and learning opportunities: Ensuring people are able to communicate, create and participate confidently in today's digital world as citizens, producers and consumers

BFI response to Ofcom's consultation questions

5. Ofcom's work to ensure effective and proportionate regulation is especially important given the rapid technological and structural changes occurring in media and communications markets. In terms of the creation, distribution and consumption of films, the most significant trends highlighted by Ofcom (in Section 2 of the Draft Annual Plan) include:
 - Growth in availability and take-up of "superfast" broadband services (needed for bandwidth-hungry VoD services) and connected devices
 - Resilience of linear TV and PSB viewing – which remains the biggest single platform for viewing films
 - Significant market developments relating to non-linear content consumption, e.g. the launch of new over-the-top (OTT) services such as Now TV and Netflix
 - Increase in the number and range of content producers, with professionally-produced broadcast content still predominant – so content rights remain key to innovation in new business models.
6. In its Draft Annual Plan, Ofcom sets out six strategic priorities (in Section 3), and goes on to discuss the individual proposed priorities and work areas for 2013/14 for each one (in Sections 4 and 5). It poses the following consultation questions:
 - What are your views on Ofcom's proposed priorities for 2013/14?
 - What are your views on Ofcom's proposed work areas for 2013/14?
7. In this response, the BFI wishes to highlight those priorities and work areas proposed by Ofcom that impact on the BFI's own activities. Across all the areas that we discuss, the BFI is supportive of Ofcom's work plans. The BFI's top-line views in these areas are described below, taking each of the strategic priorities in turn.

Strategic Purpose 1: Promote effective competition and informed choice

8. The BFI wishes to comment on the following priorities in Ofcom's Draft Annual Plan:
 - **Ofcom priority: Ensure effective competition and investment in both current and superfast broadband**

The BFI believes that the UK needs a broadband infrastructure that is both universally available and sufficiently fast to provide the full range of digital media services that people will demand. This includes VoD services, which can potentially provide access to contemporary and classic British and international films that have historically been difficult for audiences to see, because a limited number of cinemas show such material and many people live a good distance from such venues. More than any other popular form of content, film is highly reliant on fast and reliable broadband services to enable online distribution, given the large bandwidth requirements. We argued in our response to the House of Lords Select Committee on Communications' Call for Evidence for

Inquiry into the Government's Superfast Broadband Strategy (March 2012) that¹ different tiers of "superfast" broadband should be clearly defined, and suggested that the Government should set an ambitious but realistic series of targets to achieve universal access for each successive tier of broadband over the next decade. As Ofcom develops its work in this area, we believe it would be helpful to all relevant stakeholders if Ofcom were to provide greater clarity in the definitions of broadband speeds, as different levels of what are loosely referred to as "superfast" broadband will have very different implications for the range of services that are feasible.

- **Ofcom priority: Promote effective choice for consumers by ensuring that clear and relevant information is readily available (traffic management and net neutrality)**

In its statement setting out its approach to net neutrality in November 2011², Ofcom uses the term "best-efforts' internet access" to refer to the position taken by proponents of net neutrality, who support an open internet in which all traffic is conveyed on equal terms. An open internet provides important benefits: enabling any content creator – from the largest corporations to individuals making things in their bedrooms – to reach global audiences, and fostering innovation and plurality. Ofcom also makes the point that "Managed Services" – a form of traffic management – can serve to enhance efficiency. While the notions of an open internet and managed services may appear to be diametrically opposed, Ofcom argues some forms of traffic management can co-exist with 'best efforts' internet access, provided there is sufficient network capacity remaining after that used by managed services. The BFI recognises this tension: on the one hand, we strongly support the desire for an open and competitive internet to promote innovation and plurality. On the other hand, we appreciate that services providing video content (including films) are particularly "bandwidth hungry" and can suffer from deterioration of service quality due to congestion, which could harm innovation in the growth of such services.

The BFI therefore supports forms of traffic management which, for example, prioritise video content over other kinds of data in such a way as to address consumer demand for high-quality video streaming services (e.g. with as little video buffering or interruptions as possible) so long as they do not distort competition, for example by prioritising individual VoD services over others. In the context of widespread online copyright infringement, we also see merit in prioritising legal VoD services, subject to the same proviso that competition is not distorted. We agree that such forms of traffic management do not fundamentally undermine the principles of an open internet, provided sufficient network capacity remains that is entirely open. We therefore support Ofcom's proposed approach – articulated in its earlier statement and reflected in its 2013/14 priorities – to focus on guarding against forms of traffic management that are anticompetitive and promoting transparency, e.g. requiring ISPs to publish plain English explanations of their approach to traffic management.

9. The BFI wishes to comment on the following work areas for 2013/14 in Ofcom's Draft Annual Plan:

¹ See http://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-response-to-house-of-lords-select-committee-call-for-evidence-into-the-governments-superfast-broadband-strategy-2012-03_1.pdf

² See <http://stakeholders.ofcom.org.uk/consultations/net-neutrality/>

- **Work area: Ensure fair and effective competition in the delivery of pay TV services**

Two of the BFI's main objectives are to support the future success of British film and to help ensure audiences across the UK have access to as broad a range of films as possible – not just mainstream studio titles but also independent British and other specialised (e.g. international) films. Television is a key platform for films: BFI research shows that TV channels account for 80% of all “views” of films by UK audiences and revenue generated by television as part of the value chain for film is vital. The BFI therefore strongly supports the need for fair and effective competition in the delivery of film services on all platforms, in order to encourage innovation and choice, and welcomes Ofcom's plans to monitor developments in the market. This will be especially important given the growth of new “over-the-top” (OTT) services such as LOVEFILM, Netflix and Now TV (operated by Sky).

In the BFI's response to the Competition Commission's consultation on the Revised Provisional Findings Movies on Pay TV Market Investigation (June 2012)³, we made the point that, to date, the impact of these new services has been very small. Moreover, their future prospects remain uncertain, and will depend on a number of key variables such as the size and attractiveness of their content offer, the growth in take-up of connected devices such as tablets, the availability of superfast broadband, and the proportion of homes with connected TVs that use them to access TV programmes or films over the internet (estimated to be just 15% in a survey reported by the Competition Commission). So while the BFI strongly welcomes the launch of these new VoD services and anticipates their growth, we believe that it is too soon to be able to come to a definitive view as to how large these services will become and how competitive they will be in film with incumbent players such as Sky. Equally, it is too early to confidently predict their level of involvement with acquiring the exclusive rights to, or making equity investments in, first-run films, including UK and world titles. As these services develop, our priority is to ensure that audiences are able to watch as broad a range of films as possible, and that the film industry is able to secure appropriate returns on investment to re-invest in more British films. Ofcom's monitoring and reporting of developments will be invaluable as these markets evolve.

- **Work area: Contribute to the consistency of communications regulation in Europe through BEREK and ERGP**

The BFI welcomes Ofcom's active involvement in relevant European regulatory forums. We support Ofcom's position on net neutrality (see above) and therefore particularly welcome its plans to provide an opinion on the forthcoming Commission Recommendation on this subject.

- **Monitor underlying approaches to traffic management**

The BFI supports Ofcom's plans to monitor traffic management approaches, in order to ensure an appropriate balance is struck between the implementation of traffic

³ See <http://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/bfi-response-to-competition-commission-movies-on-pay-tv-2012-06.pdf>

management on efficiency grounds and the desire to reap the benefits, in terms of innovation and plurality, of an open internet (see above).

Strategic Purpose 2: Secure optimal use of spectrum

10. The areas of Ofcom's Annual Plan that are of interest to the BFI are those covering spectrum used by Programme Making and Special Events (PMSE) users and spectrum used for DTT (including new local TV services).
11. Policies affecting PMSE have a direct impact on the BFI's activities, given its duties as a distributor of National Lottery funds for film. PMSE licences allow licence-holders to use a wide range of radio equipment needed for the making of TV programmes, films, staging of events, etc. This includes radio microphones, the use of which is ubiquitous in film production. In the film and TV industries, PMSE spectrum is akin to a utility such as electricity – a basic input without which it would be almost impossible to operate. While bodies representing the production sector will continue to lead in terms of presenting industry views to Ofcom on its PMSE plans, the BFI will participate in these discussions where appropriate.
12. The BFI's interest in spectrum policies that affect DTT provision stem from the importance of TV as a platform for viewing films. As noted above, BFI research shows that TV channels account for 80% of all "views" of films by UK audiences. Viewing of films on the free-to-air channels on DTT represents a significant part of this figure. The BFI also believes that the new local TV services, which will be available on DTT, could represent an exciting new opportunity for the distribution of customised locally-specific content from the BFI National Archive and other significant collections across the Nations and Regions of the UK (see below).
13. The BFI supports policies – and the related priorities and work areas – that serve to ensure the most efficient use of spectrum, including Ofcom's proposals to make more spectrum available to enable new mobile services to be launched. More and more people are watching TV programmes, films and other video content on mobile devices, and the BFI welcomes measures that promote innovation in this area. At the same time, it is important not to undermine the strength of the DTT platform: its role in giving audiences access to films is, of course, just a small part of the public value provided by the public service broadcasters across their digital channels. As Ofcom notes, DTT delivers near-universal, low-cost access to PSB content and choice for consumers in services, receiver equipment and platforms. The BFI's view is that, in implementing its spectrum plans, Ofcom should ensure that an appropriate balance is struck between these competing objectives to ensure that the DTT platform continues to have sufficient spectrum to be able to deliver a wide range of services, and that relocation and interference issues are managed effectively so as not to cause significant inconvenience or confusion to audiences (e.g. due to the need to retune or buy new equipment).

Strategic Purpose 3: Promote opportunities to participate

14. The BFI wishes to comment on the following priority in Ofcom's Draft Annual Plan:

- **Ofcom priority: Work in collaboration with Government and industry to promote the widespread availability of superfast broadband**

While the BFI welcomes the Government strategy to ensure widespread access to broadband speeds of 2Mbit/s, this provides only a basic quality of image for video services. In our response to the House of Lords Select Committee on Communications' Call for Evidence for Inquiry into the Government's Superfast Broadband Strategy, we noted that minimum bandwidth requirements of 3Mb/s are needed to provide DVD-quality pictures. The requirements for HD video are higher (in the region of 5-10Mb/s) and much higher still to match the quality of Blu-ray discs (50-100 Mb/s). Audience demand for VoD services providing DVD and even Blu-ray quality video will grow over the coming years. As we argued above, we would encourage Ofcom to provide greater clarity in the definitions of broadband speeds, as different levels of what are loosely referred to as "superfast" broadband will have very different implications for the range of services that are feasible. It would be most helpful if Ofcom were to gather and publish data on different tiers of broadband speeds, rather than treating anything above a single threshold as being "superfast".

15. The BFI wishes to comment on the following work areas for 2013/14 in Ofcom's Draft Annual Plan:

- **Work area: Ensure the adequate provision of services for consumers with hearing impairments**

The BFI welcomes Ofcom's initiatives to promote diversity, and to ensure that communications services can be accessed by disabled people. For its part, in *'Film Forever'*, the BFI committed to embedding and monitoring diversity and equality principles across all BFI funding schemes and activities, and created a £200,000 per annum fund to build capacity in this area. The BFI is currently drawing up a diversity strategy which will set out a clear policy for diversity and equality including committing to action to achieve progress for the BFI itself and for the wider film sector. This work includes an audit of all the lottery funding guidelines and the drawing up of a consistent monitoring framework which will shortly be rolled out across the BFI.

- **Work areas: (1) Continue to promote investment that would address mobile phone not-spots. (2) Undertake further research into the effect of communications infrastructure availability on geographic areas**

The BFI supports regulatory interventions to expand mobile coverage in the UK. Consumers are increasingly using mobile devices to access a range of online services, including broadcasters' on-demand players and other services that include films (including clips, trailers and short films, while tablets in particular are driving demand for access to feature-length titles). In *'Film Forever'*, we emphasise the importance of audiences being able to access services wherever they are, and no one in the UK should be left behind because of lack of coverage from communications service providers.

Strategic Purpose 4: Protect consumers from harm

16. The BFI has no comments to make on the priorities for this strategic purpose in Ofcom's Draft Annual Plan, which relate specifically to telephony.

17. The BFI wishes to comment on the following work areas for 2013/14 in Ofcom's Draft Annual Plan:

- **Work area: Play an active role in UKCCIS and contribute to European debates in relation to the protection of minors**

The BFI supports initiatives to enable children to safely navigate the internet – including accessing age-appropriate moving image content – both at home and at school. We welcome Ofcom's plans to help inform the work of UKCCIS through its market research into awareness and use of online media, particularly the media literacy reports.

On the subject of media literacy more generally, the BFI believes that a media literate audience is essential, not only to enable citizens to engage with the multiple forms of media that influence the social, cultural and democratic spheres, but also because a more knowledgeable population is likely to be both more adventurous in their choices as film-going audiences and better equipped to compete in global markets as makers of films and other kinds of digital media. We are pleased that Ofcom will continue to carry out and publish research on media literacy (part of the "programmatically work" listed in Section 6 of the Draft Annual Plan).

- **Work area: Support industry and Government initiatives to improve levels of user trust in internet services**

The BFI provides an increasing range of consumer-facing services, some of which are transactional (including sales of cinema tickets, DVDs and books), and in 'Film Forever' we committed to develop a new VoD player which will give unprecedented access to Britain's film heritage online. We welcome Ofcom's work in this area, in particular in relation to user protection and security.

Strategic Purpose 5: Maintain audience confidence in broadcast content

18. The BFI wishes to comment on the following priorities in Ofcom's Draft Annual Plan:

- **Ofcom priorities: (1) Target licensing and enforcement to ensure effective protection for audiences. (2) Develop approaches to future content regulation**

The BFI welcomes Ofcom's plans to develop its approach to content regulation, and we look forward to contributing to the discussions. It is important that a coherent and effective approach to content regulation is developed that reflects the multiplicity of ways in which audiences access content on different platforms. We would stress that this does not imply a one-size-fits-all approach: for film, for example, different classification models have co-existed for decades covering films shown in the cinemas, on home video/DVD and on television. However, we appreciate that developing an effective approach to content regulation in the future is far from straightforward, as

convergence blurs the boundaries between different kinds of service and the owners and distributors of content operate in a growing number of sectors. Some of the services Ofcom will want to consider lie beyond its current regulatory scope, and many of the key players operate in pan-continental or global markets, raising questions in some instances about both the feasibility and desirability of national-level regulation. This means that Ofcom is likely to need to develop a framework in partnership with other regulatory bodies in the UK, such as the BBFC and ATVOD, and with relevant European and international authorities. We note that, as part of its “programmatic work” detailed in Section 6 of the Draft Annual Plan, Ofcom notes that it will engage with stakeholders internationally and actively participate in European regulatory networks (including BEREC, RSPG, ERGP and EPRA). We encourage Ofcom to maintain an ongoing dialogue with industry as part of its stakeholder engagement, and the BFI stands ready to contribute to these debates.

To give two examples of the challenges of ensuring an effective approach to content regulation, smart TV manufacturers have developed their own user interfaces which influence how linear and non-linear services are accessed, and some have chosen to target audiences directly with their own pre-installed VoD services. A second example relates to underlying system architecture of connected devices such as smartphones and tablets (such as Google’s Android and Apple’s iOS) that all “apps” rely on. These operating systems include content regulation that works effectively with integrated content stores such as iTunes, but cannot necessarily be used by third-parties: so while films accessed on iOS devices via the iTunes store have BBFC-style age restrictions, the iOS infrastructure does not allow films accessed via apps such as the BBC iPlayer or LOVEFiLM to access these controls, meaning that each VoD app has to implement its own bespoke parental controls – there is no single “switch” that parents can set on such devices to allow only content relevant to their children’s age. This issue was highlighted in research commissioned by Ofcom in a discussion of what parents want from parental controls.⁴

- **Ofcom priority: Relicensing of Channels 3, 4 & 5**

The BFI strongly supports the objective of maintaining a strong and healthy PSB system with a plurality of providers. They play a particularly important role in making films available to all UK households on their free-to-air channels, as we discussed above. Moreover, both the BBC and Channel 4 have formal requirements to support British film, including their commitments to invest in development and production. In film production, the BFI partners with BBC Films or Film4 on most of the features that it invests in through its Film Fund.

In *‘Film Forever’* the BFI sets out its ambitions to strengthen its partnerships with broadcasters, and to help enhance audience engagement with films shown on TV, in a number of ways, including a new app to enable audiences to better discover and contextualise their film viewing on television, and new collaborations linked to the BFI’s UK Audience Network of regional hubs.

⁴ “Parents’ views on parental controls: Findings of qualitative research”, Jigsaw Research, pp8-9. Annex to “Children and Parents: Media Use and Attitudes Report”, Ofcom, October 2012

One particular priority for the BFI relating to the relicensing of Channels 3, 4 and 5 is to ensure that the broadcasters' contributions to the National Television Archive are safeguarded at an appropriate level for the new licence periods. The BFI is responsible for looking after the BFI National Archive, which is designated as the National Television Archive. The 2003 Communications Act requires Ofcom to determine a contribution to the costs of the Archive from ITV, Channel 4 and Channel 5. The BFI has developed a ten-year plan that includes new capital investment to upgrade the archiving infrastructure which, once complete, will allow the BFI to provide a more comprehensive service at a lower cost. This planned investment will pay for itself over a ten-year period, reducing the overall net cost needed to operate the archive over this period. We would encourage Ofcom to secure an appropriation contribution from broadcasters over the full licence period – a single long-term settlement would enable the BFI to proceed with its upgrade plans, reducing the costs to all parties and avoiding the need for time-consuming year-by-year trilateral negotiations involving the BFI, Ofcom and each broadcaster.

19. The BFI wishes to comment on the following work area for 2013/14 in Ofcom's Draft Annual Plan:

- **Work area: License new local TV services**

One of the BFI's key cultural ambitions is to make the UK's rich screen heritage widely available. In *'Film Forever'*, we committed to digitising 10,000 works drawn from the BFI National Archive and other significant collections across the Nations and Regions of the UK, and making these available for use across multiple platforms. The BFI believes there to be exciting possibilities for collaboration with local TV providers around the presentation of high-quality content from the UK's archives. We believe that archive material could be of significant appeal to the new local TV channels' audiences, especially given that local TV channels offer a unique opportunity to tailor the proposition to each local area using geographically-specific content. Over the coming months, the BFI plans to engage with the new local TV providers as they develop their content propositions ahead of launch, to explore mutually beneficial partnerships. Ofcom and DCMS have welcomed the BFI's plans in our preliminary dialogue with them.

Strategic Purpose 6: Contribute to and implement public policy defined by Parliament

20. The BFI wishes to comment on the following priorities in Ofcom's Draft Annual Plan:

- **Ofcom priority: Implement Digital Economy Act 2010 provisions on online copyright infringement**

The BFI strongly supports Ofcom's work in this area. The production budgets for British films are typically of the order of magnitude of millions of pounds, and larger studio pictures can cost many times that amount. Similar costs also need to be borne to market and distribute films. It is a given that films will not get made if their creators and distributors are not able to generate sufficient revenue streams from the exploitation of the intellectual property across different platforms to recover the films' upfront costs. Online copyright infringement needs to be tackled through a combination of new

services that make content legally available on digital platforms and initiatives to educate consumers and raise awareness of legal services alongside a robust approach to enforce intellectual property rights.

With regards to Ofcom's reporting plans, the BFI welcomes this new requirement to report. The information presented in the Online copyright infringement tracker benchmark study for Q3 2012 was very helpful. The information on films was broadly consistent with the results of surveys commissioned by the BFI in recent years such as '*Opening Our Eyes*'.⁵ We would be pleased to have the opportunity to engage further with Ofcom to discuss what information it would be most useful to capture in relation to the online infringement of copyright for films and other kinds of content, including the development and promotion of lawful services, initiatives to raise public awareness of copyright and online infringement, etc.

- **Ofcom priority: Conduct and publish public service broadcasting review**

We have highlighted a number of times in this response the importance role played by the public service broadcasters in showing films on their free-to-air channels. The main five network TV channels showed more than 2,200 feature films each year between them in 2011, almost 500 of which were British. The most popular UK film shown in 2011, Harry Potter and the Goblet of Fire, attracted an audience of 6.5 million viewers on ITV1. Even in a digital multichannel world in which platforms such as Sky and Virgin Media offer hundreds of TV channels, the digital channel portfolios of the PSBs still accounted for 73% of all viewing in 2011, according to Ofcom's 2012 PSB Annual Report. So Ofcom's PSB Review is as important as ever. In '*Film Forever*', the BFI set out its ambitions to collaborate further with UK broadcasters (see above). We welcome the opportunity to contribute to Ofcom's PSB Review over the coming year.

- **Ofcom priority: Our role in media plurality**

The BFI believes that it is vital to promote media plurality on democratic, social and cultural grounds, and that targeted interventions from the Government and Ofcom are appropriate when the market does not deliver a sufficient degree of media plurality. In its recent work, Ofcom has chosen to interpret the scope of plurality narrowly, focusing on the provision of news and current affairs. This may be understandable given the focus of recent policy debates on plurality on the impact of (actual or planned) mergers involving media companies whose operations include major national or local newspapers. However, we believe that it is also important for Ofcom to consider the importance of securing plurality on social and cultural grounds. A study of media pluralism indicators commissioned by the European Commission, which provides a helpful typology of different kinds of pluralism, defines cultural pluralism in the following way:⁶

⁵ See <http://www.bfi.org.uk/about-bfi/policy-strategy/opening-our-eyes-how-film-contributes-culture-uk>

⁶ "Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach", K.U.Leuven – ICRI et al, prepared for the European Commission Directorate-General Information Society and Media, April 2009

“Cultural pluralism in the media refers to the fair and diverse representation of and expression by (i.e. passive and active access) the various cultural and social groups, including ethnic, linguistic, national and religious minorities, disabled people, women and sexual minorities, in the media. It comprises a plurality of themes and voices being present in the media, socialisation through multiple forms of media access and participation, choice between different forms of interaction and the representation of diverse values, viewpoints and roles, in which citizens belonging to various cultural and social groups, including national, ethnic, and linguistic groups, women, disabled people and sexual minorities, can recognise themselves.”

21. The BFI wishes to comment on the following work area for 2013/14 in Ofcom’s Draft Annual Plan:

- **Work area: Contribute to the Government’s Communications Review**

In its response to the DCMS consultation on the Communications Review in September 2012, we noted a number of areas in which the Communications Act is relevant for film:

- Broadcasters play a vital role both in investing in the development and production of British films and in showing a wide range of films from the UK and around the world
- Films are viewed on television more than on any other platform
- Public service broadcasters have a particularly important role to play with respect to film. Film forms part of the definition of PSB set out in the Communications Act. The commercial public service broadcasters (ITV, Channel 4 and Channel 5) are required to contribute to the fulfilment of this definition, while the Digital Economy Act requires Channel 4 to participate in the making and distribution of “high quality films”
- The Communications Act requires the commercially-funded public service broadcasters to contribute financially to the National Television Archive
- There are important competition considerations relating to the distribution of films both on free-TV and on premium pay services
- New subscription video-on-demand (SVoD) services are impacting on the windowing patterns and business models of broadcasters that show films
- Ofcom has specific duties regarding media (including film) literacy.