



Renewal of the Channel 4 licence

Consultation

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Section 1

Executive summary

- 1.1 The licence for the Channel 4 public television broadcasting service (“Channel 4”) is held by the Channel 4 Television Corporation (“C4C”), a statutory body established to ensure the continued provision of the Channel 4 service. The Digital Replacement Licence for the Channel 4 service¹ was issued by Ofcom in 2004 and will expire at the end of 2014.
- 1.2 Under section 231 of the Communications Act 2003 (“the Act”), Ofcom has the power to renew the Channel 4 licence for a further period. In doing so, Ofcom must:
- set the licence conditions that Ofcom “consider appropriate”; and
 - determine the length of the renewed licence, which may run “for such period as Ofcom may think fit”.
- 1.3 This is a consultation on Ofcom’s proposals for the appropriate licence conditions and licence duration, and on related questions, in advance of renewal of the licence. Although they form important context, this consultation does not consider C4C’s portfolio of channels, its on-demand or online services, or its delivery against its wider public service remit. C4C and Ofcom have separate duties concerning delivery and reporting of these under section 198A-D of the Act.
- 1.4 In the following sections of this report we consider how the statutory obligations and remit for Channel 4 and C4C have evolved; how Channel 4 has delivered against them in the current licence period; and the evolution of the wider market within which Channel 4 operates. In this context we make proposals, for consultation, for appropriate licence conditions and duration for the renewed Channel 4 licence.

Setting the Channel 4 licence conditions

- 1.5 Under the Act, Ofcom issues a licence to C4C for the broadcast of Channel 4 and is obliged to impose a range of obligations in the Channel 4 licence, including:
- Quotas for a minimum proportion of qualifying original production to be commissioned from independent producers and out of London;
 - Quotas for a specific minimum proportion of programming to be originated for the channel; and
 - Requirements to include an appropriate volume of UK news, current affairs and schools programming.
- 1.6 Additionally, Channel 4 has a specific public service remit to demonstrate innovation, experiment, and creativity; to appeal to the tastes and interests of a culturally diverse society; to make a significant contribution to include programmes of an educational nature and of educative value; and to exhibit a distinctive character. These are also included as conditions in the licence.

¹ The Channel 4 service digital replacement licence is available at

<http://licensing.ofcom.org.uk/binaries/tv/c4/c4drl.pdf>.

Other broadcast services provided by C4C are separately licensed by Ofcom.

1.7 In setting licence conditions, Ofcom must consider whether the obligations imposed on Channel 4 contribute to the purposes of public service television broadcasting as set out in section 264 of the Act. Ofcom considered this in its second Public Service Broadcasting Review (“PSB Review 2009”)² and subsequently amended some of the licence conditions for Channel 4 to:

- reduce its quota for originated programming outside of peak;
- increase its quota for programming produced out of London;
- set a new quota for production out of England (i.e. in the UK Nations: Scotland, Wales and Northern Ireland);
- reduce the quota for Schools programming to a minimal level of 30 minutes per year.

1.8 We consider that, in meeting and, in some cases, exceeding its licence conditions, Channel 4 continues to make an important contribution to the purposes of public service broadcasting. In particular, we note:

- Channel 4 is increasing its investment in first-run content and continues to commission from a wide range of producers;
- Channel 4 has increased its out of London production levels above the increased quota level;
- Channel 4 both meets its obligations for peak time delivery of UK news and makes a significant contribution to current affairs programming, particularly in peak-time when it broadcasts more current affairs than any other public service broadcaster;
- There continues to be a wide range of genres and diversity of programming on the channel;
- Channel 4 continues to commission a relatively high number of new and one-off programmes, and the volume of hours these programmes represent has increased; and
- Channel 4 continues to commission programmes which reflect its specific remit to be creative, innovative and distinctive. Ofcom’s viewer research suggests perceptions of the channel on these elements of its specific remit are positive and stable.

1.9 We consider that the following licence conditions remain appropriate to Channel 4’s obligations under the legislation, and propose that they would be unchanged in the renewed licence:

- Independent production quota;
- Out of London production quota;
- Original programming quota;

² http://stakeholders.ofcom.org.uk/consultations/psb2_phase2/statement/

- UK News and Current Affairs quotas; and
- The licence conditions related to Channel 4's public service remit.

1.10 We are seeking views on this proposal.

Proposals for amendments to the out of England (UK Nations) production and Schools programming licence conditions

1.11 There are two particular areas where we are asking whether the licence conditions are appropriate or might be amended:

- The out of England (UK Nations) production quota; and
- The Schools programming quota.

The first of these was introduced, and the second significantly changed, following the PSB Review 2009.

1.12 In commissioning programmes out of London, Channel 4 is required to use a range of production centres. In addition Channel 4 is obliged (together with the other public service broadcasters) to include a sufficient quantity of programmes that reflect different communities and cultural interests and traditions within the United Kingdom. Channel 4's public service remit requires it to provide programming which appeals to the tastes and interests of a culturally diverse society.

1.13 Ofcom considered in the PSB Review 2009 how to support these statutory requirements. At that time there was already an out of London quota in the Channel 4 licence, but there was no out of England quota. The out of London quota was increased, and a quota of 3% of programmes to be commissioned out of England was introduced for Channel 4 in 2010. This was recognised to be a low minimum requirement which would be subject to review.

1.14 C4C has proposed that the quota for out of England production could increase incrementally, to a minimum of 9% of qualifying production by 2020. C4C consider that such an increase over this time period would be sustainable.

1.15 In our view, an increase in the quota for production out of England may enhance delivery of Channel 4's obligations and remit, and we consider there are potential benefits to viewers from this. At the same time, we recognise there may be commercial implications and other considerations for C4C, and impact on other stakeholders, of a significant increase in the quota.

1.16 We are asking for views on whether to increase the out of England quota, and if so what the appropriate rate of increase and level of the quota should be.

1.17 Channel 4's public service remit requires that it includes programmes of an educational nature and other programmes of educative value. Additionally, it has a specific quota for programmes that are intended for use in Schools, although this now forms a minor part of the delivery of its education remit.

1.18 We consider the decision taken in 2010 to set the Schools programming quota at a minimum level (30 minutes per year) remains appropriate and we propose to leave this unchanged.

- 1.19 C4C has proposed that, in the event of new legislation, the Schools programming licence conditions could be removed altogether.
- 1.20 In the context of Channel 4's education remit, and C4C's duty to make media content that appeals to older children and young adults across its services, a removal of the schools programming obligation on the Channel 4 service, or a change to a quota for formal education content for younger adults and older children, might be appropriate. However, a removal or amendment to the quota itself would require a change to the legislation and would be a matter for Parliament to consider.
- 1.21 We are asking for views on how best the Channel 4 service may deliver its remit for education, and whether the existing licence conditions are appropriate to this.

Market changes and future challenges for Channel 4

- 1.22 C4C must deliver its remit, including the Channel 4 service, whilst being reliant on commercial revenues, principally advertising. It has historically used revenue generated from more commercially orientated programming to cross-subsidise investment in less profitable content, such as news, current affairs and drama.
- 1.23 In the current licence period, there have been structural changes in the market within which Channel 4 operates, with a proliferation of competing services, and an increase in the number of platforms for distribution and consumption of its content.
- 1.24 C4C has sought to meet these challenges by investing in a 'portfolio' of channels and other associated on-demand services, and by evolving its operating model, as the audience share of Channel 4 has declined.
- 1.25 The challenges for C4C in sustaining Channel 4 may increase in the next licence period. Among other factors, we note:
- increasing high-speed broadband penetration and other technological developments will make competing internet delivered, on-demand audio-visual services widely available;
 - increasing competition for viewers' attention, particularly among younger audiences, from services outside of the traditional broadcasting and audio-visual sector;
 - increasing complexity in the navigation and discovery of content by viewers; and
 - providers of content growing in scale and operating as part of a global market.
- 1.26 We would welcome stakeholder views on our analysis of the risks and opportunities of the changing market for Channel 4, and the potential challenges for C4C in sustaining Channel 4 and its licence obligations in the next licence period.

We propose a ten year duration for the renewed licence

- 1.27 In this changing context, C4C will need to sustain Channel 4 and deliver its licence conditions through the next licence period.

- 1.28 In its submission, C4C state that “the over-riding focus of the organisation will remain maximising the delivery of its public service remit on a self-sufficient basis.” C4C consider that the commercial model for Channel 4 and its licence obligations will be sustainable through a ten year licence period. It has also provided a financial plan to deliver them that considers potential market changes and sets out contingency planning in the event of either a short term decline or a structural decline in revenues.
- 1.29 We consider C4C’s financial plan is credible, and its submission that the licence obligations can be maintained is realistic. We acknowledge that there is the potential for significant change in this sector and note the risks that structural changes to the market and corresponding declines in revenue might pose to delivery of C4C’s remit, including the Channel 4 service and its licence conditions. We also note the mitigating actions that C4C has proposed in such event.
- 1.30 C4C’s “strongly preferred” licence duration is ten years, as it considers this is necessary for greater business continuity and certainty to make necessary investments in distribution and content to safeguard the operating model.
- 1.31 We recognise that business certainty would help C4C to make significant investments and potentially help in navigating some of the risks and uncertainties described above.
- 1.32 The Channel 3 and 5 licence holders would have the certainty of a ten-year licence period. C4C already has certainty in one respect, because the Channel 4 licence can only be held by C4C. However, we consider that a short licence period may adversely affect C4C’s business planning, and thus impair delivery of its remit. The cost and distraction of a frequent licence renewal process is also a consideration.
- 1.33 On the other hand, if the Channel 4 licence were significantly longer than that of the other public service broadcasters, it might introduce inflexibility in the public service broadcasting framework, or in relation to particular licence obligations. There are likely to be challenges for the public service broadcasters and overall framework in the future, although any changes to the framework would be for Parliament to consider.
- 1.34 We therefore propose that the Channel 4 licence should be renewed for a ten year period. We are asking for views on this proposal.
- 1.35 We would welcome responses on all our consultation questions, listed in Annex 4, by **10 October 2013.**

Section 2

The evolution of legislation and public service remit for Channel 4

Summary

- 2.1 In considering appropriate conditions for a renewal of the Channel 4 licence, we are mindful of the unique position of Channel 4, and C4C and its distinctive remit, and how both have evolved over time. This chapter sets out relevant history and legislation with respect to Channel 4 and C4C.
- 2.2 The Channel 4 service was established over 30 years ago. It was set up with a unique model of being a publicly owned but commercially funded provider of public service content, which it must source from external producers. The service was intended to be an alternative voice to the BBC and Channel 3 services in the delivery of public purposes.
- 2.3 The Broadcasting Act 1990 (the “1990 Act”) established Channel 4 as a licensed service with a public service remit, which was to be secured by an independent statutory body, the Channel 4 Corporation. It also introduced licence conditions, in the form of quotas, for specific types of production and in key public service genres.
- 2.4 The Communications Act 2003 transferred to Ofcom the duty to grant a licence and set licence conditions for Channel 4, as it does for the other commercial public service licences. In accordance with the Act, in 2004 Ofcom replaced the existing analogue licence with a digital television licence containing substantially the same licence conditions for a 10 year period, expiring in 2014.
- 2.5 In 2010, Parliament made substantial changes to the remit and governance arrangements of C4C through the Digital Economy Act 2010 (“the DEA”). In particular, the DEA introduced a new remit for C4C in relation to its provision of media content, to be delivered via its portfolio channels, on-demand and internet services as well as through Channel 4.
- 2.6 The DEA also introduced a separate reporting and governance process under which C4C is now required to prepare an annual Statement of Media Content Policy (“SMCP”) on how its remit has been delivered in the last year, and will be delivered in the next year, across its services, including the Channel 4 service. In preparing the SMCP, C4C must consult Ofcom and have regard to Ofcom’s guidance.³
- 2.7 The DEA did not amend the public service remit or licence obligations of Channel 4 itself. Consequently, the licence conditions on the Channel 4 service which Ofcom has imposed in accordance with the Communications Act remain in place.
- 2.8 Ofcom’s duties in renewing the Channel 4 licence are defined by the Act. In renewing the licence, Ofcom is required to set the conditions that it “considers appropriate” so

³ Ofcom publishes guidance for C4C on the preparation of the SMCP and the areas on which it must report and set out forward strategy. See:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/c4c-guidance-note.pdf>

that Channel 4 meets the obligations specified in the Act, and to determine the length of a renewed licence, which may run “for such period as Ofcom may think fit”.

The establishment of a Channel 4 service under the Broadcasting Act 1981

- 2.9 The Broadcasting Act 1981 (the “1981 Act”) gave the Independent Broadcasting Authority (“IBA”) responsibility for establishing a fourth channel and imposed upon the IBA a number of duties in relation to the programming of the fourth channel.⁴ Its programming remit was to:
- ensure that programmes contain a suitable proportion of matter calculated to appeal to tastes and interests generally not catered for by the Channel 3 services;
 - ensure that a suitable proportion of programmes are of an educational nature;
 - encourage innovation and experiment in the form and content of programmes; and
 - more generally, give the fourth channel a distinct character of its own.
- 2.10 Channel 4 began broadcasting on 2 November 1982, with the programming remit and funding arrangements set out in the 1981 Act.

An independent Channel 4 licence and statutory body under the Broadcasting Act 1990

- 2.11 With the abolition of the IBA and the introduction of a licensing regime for television services, the 1990 Act created the Channel Four Television Corporation (C4C) as a statutory body and required that it “secure the continued provision...of the television broadcasting service known as Channel 4.”⁵
- 2.12 Channel 4’s programming remit was secured through the licence provided by the Independent Television Commission (“ITC”) to C4C, with duties relating to the programming remit included as licence conditions. Those licence conditions included requirements to:
- ensure that Channel 4 programmes contain a suitable proportion of matter calculated to appeal to the tastes and interests not generally catered for by Channel 3 [ITV];
 - be innovative and experimental in the form and content of Channel 4 programmes;
 - ensure that Channel 4 is given a distinctive character of its own;

⁴ Broadcasting Act 1981, Section 11(1)

⁵ Broadcasting Act 1990, Section 24(1)

- ensure that a suitable proportion of Channel 4 programmes are of an educational nature;
- ensure that a suitable amount of time is given for high quality news and current affairs programmes;
- ensure that a proper proportion of the matter included in Channel 4 programmes is of European origin; and
- ensure that no less than a prescribed percentage of qualifying production is allocated to independent productions.

2.13 The exact proportions, percentages and amounts of the quotas were to be determined by the ITC and set out as conditions in the licence.

The current Channel 4 licence under the Communications Act 2003

2.14 The Communications White Paper, published in 2000, set out the Government's proposals for adapting to the 'communications revolution' of digital television, mobile phones and personal computers. This included the following proposals for Channel 4 and its programming remit:

- to maintain Channel 4 as a public service broadcaster with a remit which provides both complementarity and competition to the BBC and the Channel 3 licensees while reviewing the channel's remit "both to make it more positive and also to ensure that it continues to provide distinctive and innovative programming in the future";
- to retain the public service broadcasters' independent productions obligations;
- to retain and strengthen the regional dimension to public sector broadcasting, which included considering "the role of Channel 4 in promoting regional production"; and
- to make Ofcom responsible for ensuring the delivery of those public service obligations which are quantifiable by, for example, ensuring compliance with quotas for original productions.

2.15 The Act resulting from the Communications White Paper maintained the requirements for licence obligations in the 1990 Act while supplementing them with further duties in relation to out of London production, schools programmes and original productions.

2.16 Section 231 provided for the replacement of the Channel 4 licence with a digital replacement licence, to remain in force until the end of 2014. Under the Act Ofcom assumed the powers of the ITC in relation to the licensing of broadcasters, including Channel 4, and on 17 December 2004 Ofcom issued C4C with a digital replacement licence, which came into force on 28 December 2004. The licence included a number of conditions that had been included in the previous Channel 4 licence, although the level and detail of some of the licence conditions were varied (see Annex 5).

Ofcom's first and second Public Service Broadcasting Reviews

- 2.17 The Act also required that Ofcom conduct a review of public service broadcasting ("PSB Review") on a periodic basis. In undertaking this review, Ofcom is required to assess how far the public service broadcasters (the BBC, the Welsh Authority, the providers of the licensed public service channels and the public teletext provider), taken together, are fulfilling the purposes of public service broadcasting. The purposes of public service broadcasting and the manner in which they should be fulfilled are set out in Section 264 of the Act.
- 2.18 Ofcom's first PSB Review (2005) made no specific findings in relation to Channel 4's obligations or remit, but concluded that "a not-for-profit, commercially funded Channel 4 is an important part of the PSB landscape, and should remain so up to [digital] switchover and beyond".⁶
- 2.19 Ofcom's second PSB Review (2009) recognised the value of Channel 4's role "as a second organisation focused on public purposes, providing an alternative source of public service content (to the BBC)". Audience research conducted by Ofcom also confirmed it was particularly valued for "its diverse range of innovative and high quality programming, reaching specific audiences across digital media".
- 2.20 Ofcom considered that Channel 4's remit should be substantially retained as: the production of innovative and distinctive programming; the delivery of public purposes through specific genres (UK News; Current affairs; UK drama; UK comedy; UK factual; and Educational programming); and the duty to reach a diverse audience and represent alternative views. Ofcom also recommended additional responsibilities in providing UK programming for older children, a higher representation of the UK Nations in its programming, and a more explicit commitment to British film.
- 2.21 Ofcom also highlighted the importance of Channel 4 having a renewed remit, governance and accountability framework.

An extended remit for C4C under the Digital Economy Act 2010

- 2.22 The Digital Britain Report, published in 2009, outlined the Government's proposals to ensure that the UK maintained its position as one of the world's leading digital knowledge economies.
- 2.23 The report set out the Government's intention to update and extend the statutory remit for C4C to champion and promote creativity and new talent across all its digital media services.
- 2.24 The Digital Economy Act ("DEA 2010") which followed the Digital Britain Report, introduced a number of duties on C4C in relation to the provision of media content across all its services. C4C's remit was updated to require it to participate in a broader range of activities:⁷

⁶ Ofcom first Review of public service television broadcasting: Phase 3
<http://stakeholders.ofcom.org.uk/consultations/psb3/>

⁷ Communications Act 2003, s.198A(1) and (2), inserted by the DEA.

- the making of a broad range of relevant media content of high quality that, taken as a whole, appeals to the tastes and interests of a culturally diverse society;
- the making of high quality films intended to be shown to the general public at the cinema in the United Kingdom;
- the broadcasting and distribution of such content and films;
- the making of relevant media content that consists of news and current affairs;
- the making of relevant media content that appeals to the tastes and interests of older children and young adults;
- the broadcasting or distribution by means of electronic communications networks of feature films that reflect cultural activity in the United Kingdom; and
- the broadcasting or distribution of relevant media content by means of a range of different types of electronic communications networks.

2.25 In carrying out these duties, C4C must⁸:

- promote measures intended to secure that people are well informed and motivated to participate in society in a variety of ways;
- support the development of people with creative talent, in particular people involved in the film industry and at the start of their careers;
- support and stimulate well-informed debate on a wide range of issues, including by providing access to information and views from around the world and by challenging established views;
- promote alternative views and new perspectives; and
- provide access to material that is intended to inspire people to make changes in their lives.

2.26 C4C currently provides the following services through which it may fulfil these duties:

- Broadcast television services. These currently include the main Channel 4 service, 4seven, Film 4, E4, More 4, 4Music, Box Television and the “+1 hour” versions of some of these services.
- On-demand and internet services. These currently include the 4-on-demand service (4od), Channel4.com and associated websites and 4mations.⁹

C4C’s annual Statement of Media Content Policy

2.27 Sections 198A to 198D of the Act (as amended by the DEA) also established a new governance and oversight process for C4C in delivery of its duties. C4C is required to prepare an annual Statement of Media Content Policy (“SMCP”) incorporating the

⁸ Communications Act 2003, s.198A(3) and (4), inserted by the DEA.

⁹ C4C also distributes on-demand content through a number of third-party platforms and services.

Statement of Programme Policy for Channel 4. This provides for C4C to set out its forward content strategy for meeting its media content duties across its portfolio of services, including Channel 4, and to report on its delivery against this.

- 2.28 In preparing the SMCP, C4C must consult Ofcom and have regard to guidance on preparation of the SMCP which Ofcom must publish and from time to time revise. Following consultation, Ofcom published guidance in February 2011.¹⁰ In summary, the guidance provides for C4C to report on, and set out its proposals for:
- The fulfilment of its media content duties introduced by the DEA;
 - The fulfilment of its public service remit;
 - Delivery against the conditions set out in the Channel 4 licence;
 - Overall strategy and the balance between content provision on the various services; and
 - Measurement of delivery on TV services, on-demand and online services.
- 2.29 The guidance also outlines that C4C will consult with Ofcom at Board level, and that the SMCP must be published as soon as practicable after its preparation is complete. C4C publishes the SMCP as part of its Annual Report.¹¹ Prior to its publication, representatives of the Ofcom Board and C4C Board have met to discuss its contents and arising issues. Ofcom has written to the C4C Chairman as a record of these meetings, and subsequently published these letters.¹²

Ofcom's duty to review C4C's fulfilment of its remit and duties, and powers to address serious failure

- 2.30 The DEA introduced a requirement for Ofcom to prepare and publish a report that reviews the extent to which C4C has discharged its media content duties.¹³
- 2.31 The DEA also introduced backstop powers for Ofcom in the event that it considered C4C was failing to meet its media content duties. If Ofcom considers that C4C has failed to perform its media content or reporting duties, and that the failure is serious and not excused by economic or market conditions, Ofcom may issue a direction to C4C to revise its SMCP and/or take other steps to address this.¹⁴ If C4C fails to comply with a direction in respect of a failure to perform its media content duties, section 271A of the Act allows Ofcom to vary the Channel 4 licence as it considers appropriate for remedying the failure.

¹⁰ <http://stakeholders.ofcom.org.uk/broadcasting/tv/c4/>

¹¹ <http://annualreport.channel4.com/>

¹² <http://stakeholders.ofcom.org.uk/binaries/broadcast/tv-ops/c4/>

¹³ Communications Act 2003, s.198C, inserted by the DEA.

¹⁴ Communications Act 2003, s.198D, inserted by the DEA.

Ofcom's duties in renewing the Channel 4 licence

2.32 The licence for Channel 4 is held by C4C, a statutory body established to ensure the continued provision of Channel 4. The current licence, which takes the form of a Digital Replacement Licence,¹⁵ was issued by Ofcom in 2004 and will expire at the end of 2014.

2.33 Ofcom's duties in relation to renewal of the Channel 4 licence are set out in section 231 of the Act. In summary, they are

- to set the licence conditions that Ofcom "consider appropriate" to delivering the specific outcomes envisaged by the Act; and
- to determine the length of the renewed licence, which may run "for such period as Ofcom may think fit".

¹⁵ The Channel 4 service digital replacement licence is available at <http://licensing.ofcom.org.uk/binaries/tv/c4/c4drl>
Other broadcast services provided by C4C are separately licensed by Ofcom.

Summary table of Ofcom's duties in relation to C4C and Channel 4

	Ofcom's duties	Recent activity
PSB Review	To review the extent to which the public service broadcasters have fulfilled the purposes and characteristics of public service broadcasting, with a view to maintaining and strengthening the quality of public service television broadcasting.	In the PSB Review (2009) Ofcom: -endorsed C4C as a second public institution with a wider remit than Channel 3 or Channel 5; and -amended certain conditions in 2010 following an assessment in the PSB review that it was appropriate to do so, reducing the originations quota, but increasing the out of London quota and introducing an out of England quota.
C4C's Statement of Media Content Policy	Ofcom set guidance for, and must be consulted by, C4C in the preparation of its Statement of Media Content Policy.	Guidance to C4C was published in February 2011. Representatives of the C4C and Ofcom Boards have met, and Ofcom has sent subsequent letters to C4C, in 2011, 2012 and 2013.
Report on C4C's duties under the DEA	Ofcom must prepare and publish a report that reviews the extent to which C4C has delivered its duties across its services.	This is a new duty introduced in 2010
Directions to C4C to remedy serious failure	Ofcom has powers to direct C4C to remedy a failure in meeting its duties in the DEA. In such an event, Ofcom could direct C4C to revise its Statement of Media Content Policy and/or take specific steps to remedy the failure. Ultimately Ofcom could modify the Channel 4 licence by adding appropriate licence conditions to remedy the failure.	Ofcom has never used these powers.
Renewal of the Channel 4 licence	To ensure the Channel 4 licence contains conditions to meet its obligations. To set the duration of a renewed licence. Ofcom may amend conditions at other times if it considers it is appropriate to do so, provided that C4C has been given a reasonable opportunity to make representations.	The current licence commenced in 2004 and expires in 2014. Following the PSB Review 2009 (see above) certain licence conditions were amended.

Section 3

Proposals for licence conditions for the renewed Channel 4 licence

- 3.1 Under the Act, Ofcom is obliged to impose a range of conditions in the licence for Channel 4. In renewing the Channel 4 licence, Ofcom is required to set the licence conditions that we consider appropriate for the Channel 4 service given its statutory obligations. This chapter sets out our analysis and proposals for appropriate licence conditions in the renewed licence.
- 3.2 In setting licence conditions, Ofcom must consider whether the obligations imposed on Channel 4 contribute to the purposes of public service television broadcasting as set out in section 264 of the Act. Ofcom considered this in the PSB Review 2009 and subsequently amended some of the licence conditions for Channel 4 to:
- reduce its quota for originated programming outside of peak;
 - increase its quota for programming produced out of London;
 - set a new quota for production out of England (i.e. in the UK Nations: Scotland, Wales and Northern Ireland);
 - reduce the quota for schools programming to a minimal level of 30 minutes per year.
- 3.3 We consider that, in meeting and, in some cases, exceeding its licence conditions, Channel 4 continues to make an important contribution to the purposes of public service broadcasting. In particular, we note:
- Channel 4 is increasing its investment in first-run content and continues to commission from a wide range of producers;
 - Channel 4 has increased its out of London production levels above the increased quota level;
 - Channel 4 both meets its obligations for peak time delivery of UK news and makes a significant contribution to current affairs programming, particularly in peak-time when it broadcasts more current affairs than any other public service broadcaster;
 - There continues to be a wide range of genres and diversity of programming on the channel;
 - Channel 4 continues to commission a relatively high number of new and one-off programmes, and the volume of hours these programmes represent has increased; and
 - Channel 4 continues to commission programmes which reflect its specific remit to experiment and be creative, innovative and distinctive. Ofcom's viewer research suggests perceptions of the channel on these elements of its specific remit are positive and stable.

- 3.4 In summary, we consider that the licence conditions – as amended in the current licence period – remain largely appropriate to Channel 4’s obligations under the legislation. We propose to leave the licence conditions and levels of quota unchanged for independent production; out of London production; originated programming; and UK news and current affairs. The licence conditions related to Channel 4’s public service remit would also remain unchanged.
- 3.5 There are two particular areas where we are considering whether the licence conditions remain appropriate and whether potential amendments may be warranted: the out of England (UK Nations) production and schools programming quotas. These licence conditions were respectively introduced and significantly changed following the PSB Review 2009, and C4C, in its submission in advance of this consultation, has made proposals for amendments.
- 3.6 We are consulting on whether to increase the out of England (Nations) production quota, including the level of the quota and the rate of any increase to it.
- 3.7 We are minded to make no change to the licence condition for Schools programming but we are seeking views on how best Channel 4 may deliver its remit for education and whether the existing licence conditions are appropriate to this.

Ofcom is required to set appropriate licence conditions for the licensed public service broadcasters

- 3.8 The Act requires Ofcom to set appropriate conditions on the licensed public service channels (the Channel 3, Channel 4 and Channel 5 licensed services) for securing certain outcomes.
- 3.9 Under the Act, Ofcom is obliged to impose a range of obligations in the Channel 4 licence, including:
- Quotas for a minimum proportion of qualifying original production to be commissioned from independent producers and out of London;
 - Quotas for a minimum proportion of programming to be originated by the channel; and
 - Requirements to include an appropriate volume of UK news, current affairs and schools programming.
- 3.10 Additionally, section 265 of the Act requires the inclusion of a licence condition requiring the provider of Channel 4 to fulfil Channel 4’s public service remit to provide a broad range of high quality and diverse programming which, in particular:
- demonstrates innovation, experiment and creativity in the form and content of programmes;
 - appeals to the tastes and interests of a culturally diverse society;
 - makes a significant contribution to meeting the need for the licensed public service channels to include programmes of an educational nature and other programmes of educative value; and

- o exhibits a distinctive character.

3.11 The quotas set a minimum level of delivery, with failure to meet them enforceable under the licence. The Independent Production quota for all licensed public service channels is set by the Act at 25 per cent of qualifying programmes. Ofcom has discretion, following consultation with the licensee, to set the level of the other quotas.

3.12 Channel 4’s current quota levels, and comparative performance between 2006 and 2012, are set out in the table below.

Obligation	Quota level	2006 performance	2012 performance
Independent production	25%	84 %	78%
Out of London			
-Value	30%	37%	41%
-Volume	35%	40%	48%
-Volume: UK Nations	3%	n/a	7%
Originations total			
-in peak	56% 70%	63% 74%	63% 79%
News – in peak	208hrs	210hrs	209hrs
Current Affairs total			
-in peak	208hrs 80hrs	219hrs 119hrs	217hrs 136hrs
Schools programming	0.5hrs	420hrs	24hrs

Considerations in setting appropriate licence conditions

3.13 Ofcom has a general duty to have regard to “the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom”.¹⁶ Ofcom must consider whether the obligations imposed on Channel 4 contributes to the purposes of public service television broadcasting as set out in section 264 of the Act.

¹⁶ Section 3(4)(a) of the Communications Act

- 3.14 Under section 264 of the Act, Ofcom is required to review the extent to which public service broadcasters have fulfilled the purposes of public service television broadcasting in the UK, and to report with a view to maintaining and strengthening the quality of such broadcasting in a public service broadcasting review.
- 3.15 The PSB Review 2009 included Ofcom's statement on short term regulatory decisions which set out a number of changes Ofcom intended to make to the licence conditions of the licensed public service broadcasters, including Channel 4.¹⁷
- 3.16 Channel 4's licence conditions for original productions, regional productions and schools programming were amended by variation 13¹⁸ to the Channel 4 licence, with effect from 2010. The other licence conditions remained unchanged.
- 3.17 The renewal of the licence allows consideration of the effect of these variations, and of whether, overall, the licence conditions remain appropriate. However, a variation to the licence conditions is not confined to the licence renewal process. Subject to consultation with the licensee, if it considers it appropriate Ofcom can vary the Channel 4 licence conditions at any point.
- 3.18 In considering whether a licence condition is appropriate, it is possible that Ofcom could consider amending the level of a quota to 'lock-in' delivery which is above the existing quota level, or to require increased delivery. Equally, Ofcom could lower a quota or otherwise amend the licence conditions if it considered they were no longer appropriate to Channel 4's statutory obligations.
- 3.19 As a publicly owned organisation with a statutory remit, C4C has the duty to maximise delivery of its public service remit under the licence to a level that is sustainable across its obligations. We note that C4C has media content duties, introduced by the DEA, and content delivered on Channel 4 may contribute to its performance of these duties, as well as fulfilling Channel 4's licence obligations and remit.
- 3.20 In the context of this consultation, we invited C4C to make a submission, including its views on the current licence conditions and whether it considers they remain appropriate.
- 3.21 In its submission C4C states that it considers that the current licence conditions are appropriate, that the main Channel 4 service will remain the most watched and appropriate place in delivering public value, and that it does not anticipate the scale or scope of Channel 4's licence obligations to change substantially. C4C also states that the introduction of new licence obligations would reduce C4C's ability to focus on fulfilling the spirit of the remit set out in legislation as well as the letter of it as set out in the licence.
- 3.22 In the following sections, we consider whether each of the existing conditions in the Channel 4 licence continues to be appropriate. In each section, we have set out:
- The current licence condition and relevant legislation;
 - Channel 4's contribution to the relevant purposes of public service broadcasting, and Ofcom's assessment of this in the PSB Review 2009;

¹⁷ http://stakeholders.ofcom.org.uk/binaries/consultations/psb2_phase2/statement/shortterm.pdf

¹⁸ http://licensing.ofcom.org.uk/binaries/tv/c4/Variation_13.pdf

- Delivery against the licence condition, drawing on data from Ofcom's PSB Annual Reports¹⁹; and
- Additional information provided by C4C in its annual Statement of Media Content policy, or in its submission made in the context of this consultation.

3.23 In summary, we consider that the licence conditions, as amended over the current licence period, remain largely appropriate to securing Channel 4's statutory obligations. This would leave the licence conditions and levels of quota unchanged for:

- independent production;
- out of London production;
- original productions;
- UK news and current affairs.

3.24 It would also leave the licence conditions related to Channel 4's public service remit unchanged.

3.25 We would welcome views from stakeholders on this proposal.

3.26 There are two particular licence conditions where we consider it is appropriate to consider in more detail the licence conditions and potential amendments: the out of England (Nations) production and schools programming licence conditions. These were respectively introduced and significantly changed in the current licence period, and to which C4C, in its submission, has made proposals for further amendments. In these sections we set out relevant background, C4C's proposal, Ofcom's analysis and a question for consultation responses.

Consultation question 1: Do you agree with Ofcom's view that the current licence conditions remain largely appropriate to securing Channel 4's obligations?

Independent production

3.27 Section 277 of the Act requires that the licence includes conditions securing that:

"not less than 25 per cent of the total amount of time allocated to the broadcasting of qualifying programmes included in the channel is allocated to the broadcasting of a range and diversity of independent productions."

3.28 This is provided for by Condition 12 of the Channel 4 licence which requires no less than 25 percent of qualifying programmes to be independent productions.

3.29 Additionally, under section 295 of the Act, C4C is required not be involved in the making of programmes for Channel 4 (except to such an extent as Ofcom may allow). Ofcom has not allowed C4C to be involved in the making of programmes for Channel 4 (and Channel 4 has not requested that it be allowed to do so).

¹⁹ Ofcom PSB annual reports are published at:
<http://stakeholders.ofcom.org.uk/broadcasting/reviews-investigations/public-service-broadcasting/annrep/>

- 3.30 In 2012 78% of Channel 4's qualifying commissions were to qualifying independent production companies, with the remainder to producers who are external to C4C but do not qualify as independent producers.
- 3.31 C4C's media content duties, introduced by the DEA, require it to develop new producers and support the creative sector more broadly. The Channel 4 service is the main service for which C4C commissions.
- 3.32 In its Annual Report 2012²⁰, C4C state that it worked with 460 different companies supplying content for its services across TV, online and film (an increase of 6% on 2011). Of this, 274 television production companies supplied its programming across all its TV services. It has also continued to invest in access and development schemes (such as the Alpha Fund) to encourage first-time producers.
- 3.33 In light of the requirements of the Act and the fact that Channel 4 continues to far exceed the quota, we consider that the existing licence conditions remain appropriate to include in the renewed licence.

Out of London production

- 3.34 Section 288 of the Act requires Ofcom to include in the Channel 4 licence conditions it considers appropriate to ensure that:

“(a) that what appears to OFCOM to be a suitable proportion of programmes made in the United Kingdom for viewing on Channel 4 are programmes made in the United Kingdom outside the M25 area;
(b) that the programmes for such viewing that are made in the United Kingdom outside the M25 area (taken together) constitute what appears to OFCOM to be a suitable range of programmes;
(c) that what appears to OFCOM to be a suitable proportion of the expenditure of C4C on programmes made in the United Kingdom for viewing on Channel 4 is referable to programme production at different production centres outside the M25 area; and
(d) that the different programme production centres to which that expenditure is referable constitute what appears to OFCOM to be a suitable range of such production centres.”

- 3.35 In doing so, we have had regard to the purposes of public service broadcasting set out in section 264 of the Act and the manner in which they should be fulfilled, in particular:

“that those services (taken together) include what appears to OFCOM to be a sufficient quantity of programmes that reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom;

that those services (taken together), so far as they include programmes made in the United Kingdom, include what appears to OFCOM to be an appropriate range and proportion of programmes made outside the M25 area.”

²⁰ <http://www.channel4.com/info/corporate/annual-report/>

3.36 In the course of the PSB Review 2009, C4C stated its intention to increase out of London production as part of its on-going public service contribution. Ofcom consulted on, and subsequently increased Channel 4's out of London production quota from 30% to 35%.

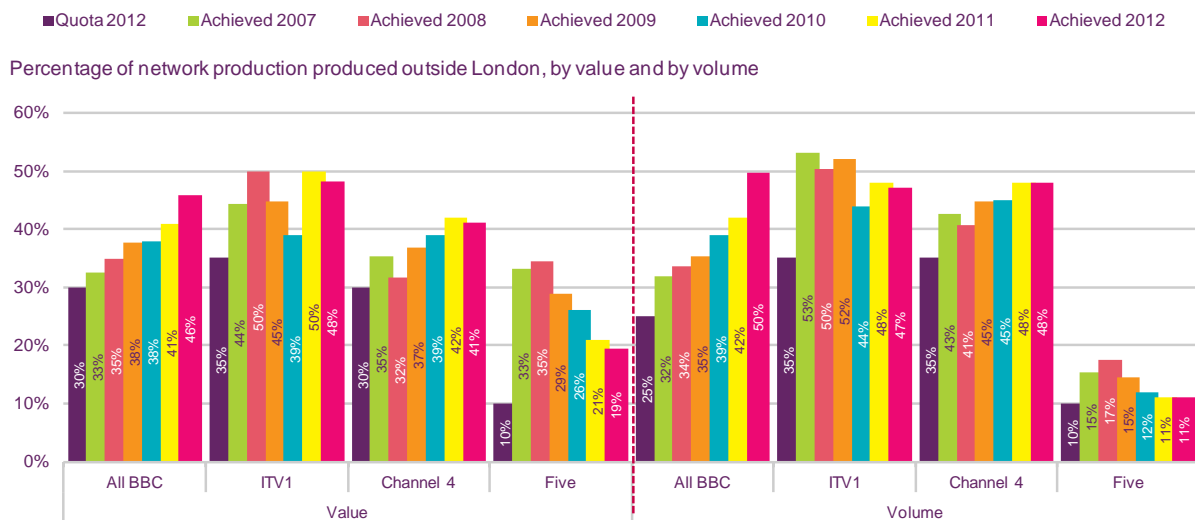
3.37 Condition 8 in the Channel 4 licence requires (by virtue of Part 1 of the Annex) that:

“The Corporation shall ensure that in each calendar year at least 35 per cent of the hours of programmes made in the UK for viewing on the Channel 4 Service shall be produced outside the M25.

The Corporation shall ensure that in any calendar year at least 35 per cent of its expenditure on programmes made in the UK for viewing on the Channel 4 Service shall be allocated to the production of programmes produced outside the M25 and must be referable to programme production at a range of production centres.”

3.38 Since the PSB Review 2009, Channel 4 has increased the volume and value of out of London production above the set quota levels. Channel 4's production out of London has increased, from 37% in 2009 to 41% in 2012 by value, and from 45% to 48% by volume in the same period. This is comparable to the delivery of out of London production for network on BBC services and ITV1 (the network output of the Channel 3 licences), and higher than out of London production on Channel 5.

Figure 1: PSB delivery against out of London quotas, 2006-2012



Source: Ofcom/broadcasters

3.39 Commissioning for the Channel 4 service represents the major, although not the only, contribution to out of London production by C4C. C4C's 2012 Annual Report details that it has significantly increased production outside of London, investing a total of £157m (an increase of 25% since 2010) for commissions across all of its services from companies in the UK nations and regions. C4C also state that it spent 35% of its online commissioning budget (of c. £17m) outside of London.

3.40 We consider Channel 4's out of London quota benefits viewers by increasing the range and diversity of production sources employed which, in many cases, increases the reflection of different communities and cultures of the UK in programming broadcast on the service. We note the increases in out of London production in

excess of the increased quota, and have not identified any factors which might affect Channel 4's ability to continue to meet its licence obligations.

- 3.41 Ofcom therefore considers that the out of London production obligations in the Channel 4 licence, and the quota of 35 per cent by volume and value of qualifying production, remain appropriate for inclusion in the renewed licence.

Original productions

- 3.42 Section 278 of the Act requires Ofcom to include conditions in the licences of the public service channels that Ofcom consider appropriate for securing:

“that the time allocated, in each year, to the broadcasting of original productions included in that channel is no less than what appears to them to be an appropriate proportion of the total amount of time allocated to the broadcasting of all the programmes included in the channel; and

that the time allocated to the broadcasting of original productions is split in what appears to them to be an appropriate manner between peak viewing times and other times.”

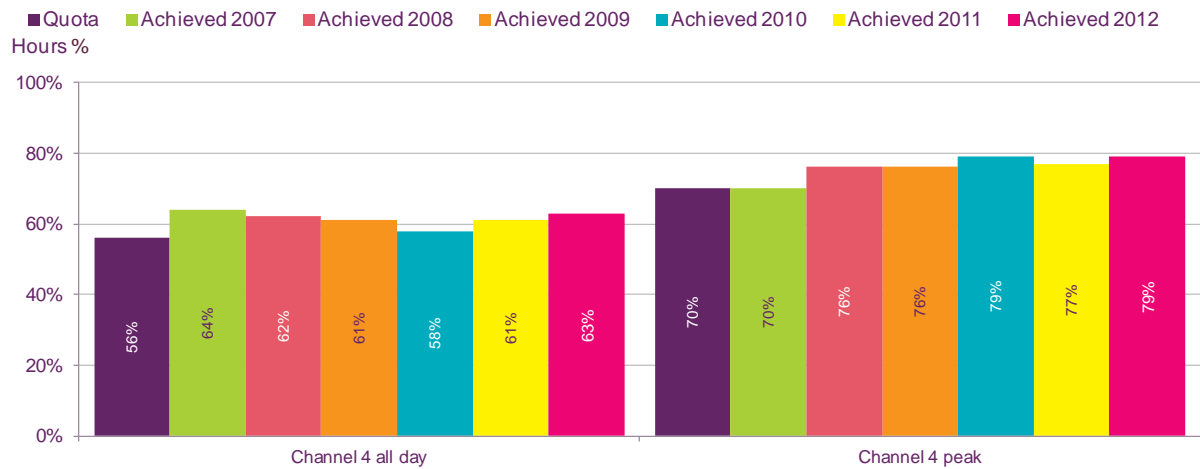
- 3.43 In the PSB Review 2009, Ofcom consulted on and decided to reduce the total originations quota for Channel 4 from 60% to 56%, while maintaining the peak time quota of 70%. The amendment was in recognition that, in an uncertain economic climate, Channel 4 should continue to make a substantial contribution to and investment in original programming, but that its broadcast of such programming should be concentrated in peak viewing time.

- 3.44 Ofcom therefore varied Condition 13 in the Channel 4 licence to require that, by virtue of Part 1 of the Annex:

“At least 56 per cent of the hours of programmes included in the Channel 4 Service in each calendar year shall be originally produced or commissioned for the Channel 4 Service and at least 70 per cent of the hours of programmes in peak viewing time shall be originally produced or commissioned for the service.”

- 3.45 Between 2006 and 2011, first run originated output from the PSBs declined overall, but increased in peak-time. Channel 4's first run originated output has followed this trend. Since the variation to the licence, Channel 4 has moderately reduced total first run originations to 63% in 2012, but has progressively increased delivery against the peak-time quota to reach 79% in 2012.

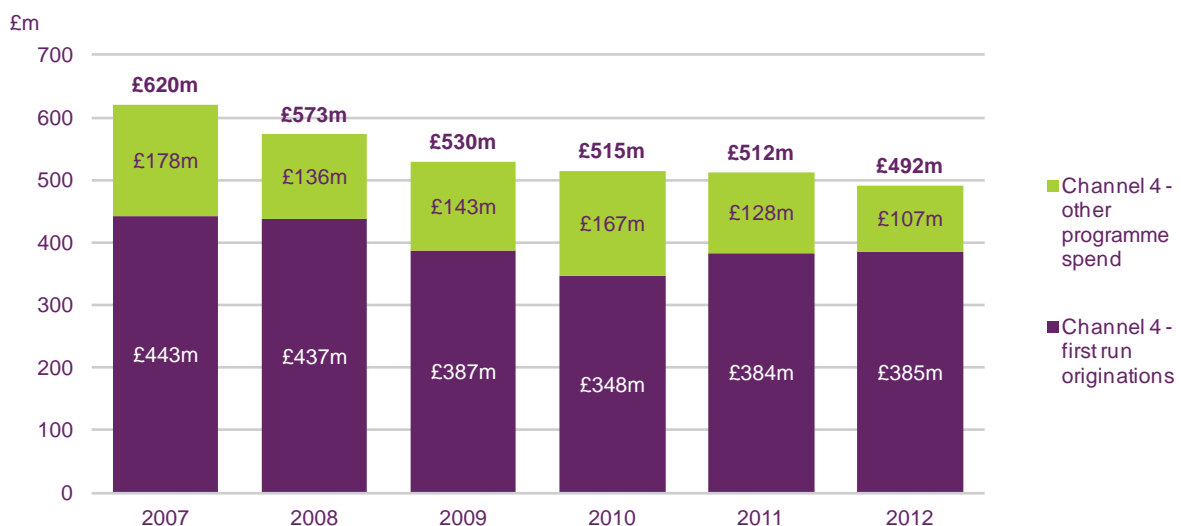
Figure 2: Channel 4 delivery against originations quotas, all day and peak time



Source: Ofcom/broadcasters

3.46 In its 2012 Annual Report C4C states that it spent £434m across all its services on original content, as part of a total content budget of £608m. The majority of this investment is for programming on the main Channel 4 service. Following a reduction between 2007 and 2010, spend on first run originations on the Channel 4 service has increased by 11% in real terms from £348m in 2010 to £385m in 2012.

Figure 3: Channel 4 main service programme spend – total and first-run origination, 2007-2012



Source: Ofcom/broadcasters. Note: figures are expressed in 2012 prices.

3.47 We continue to consider that the licence conditions for original programming are appropriate. We note that Channel 4 has in recent years increased delivery above the level of the quotas set, and that the level of spend in originated programming is increasing overall. We consider the difference between total and peak time quotas for original programming is appropriate and helps secure a high quality of programming when audiences are most likely to be watching. Ofcom has not identified any factors which might affect Channel 4's ability to continue to meet this licence condition.

- 3.48 Ofcom therefore considers that the original production obligations in the Channel 4 licence, including an annual quota of 56 per cent of the hours of programmes overall and 70 per cent in peak viewing time, remain appropriate for inclusion in a renewed licence.

UK News and Current Affairs

- 3.49 Section 279 of the Act requires Ofcom to include conditions in the licences of the public service channels as Ofcom consider appropriate for securing the following:

“(a) that the programmes included in the channel include news programmes and current affairs programmes;

(b) that news programmes and current affairs programmes included in the service are of high quality and deal with both national and international matters;

(c) that news programmes are broadcast for viewing at intervals throughout the period for which the channel is provided.

- 3.50 Section 279 also requires that Ofcom set an appropriate minimum level for time allocated for each of news programming and current affairs programmes, and that the total for each is split in what appears to Ofcom to be an appropriate manner between peak viewing times and other times.

- 3.51 Ofcom therefore included Condition 15 in the Channel 4 licence. This requires Channel 4 to include news and current affairs programmes that are of high quality and deal with both national and international matters, and that:

“News programmes shall be provided at intervals throughout the period for which the Channel 4 Service is provided...with at least one programme at lunchtimes each weekday and one in the early evening each weekday and a programme in the early evening at weekends on both Saturday and Sunday.

Not less than 208 hours in each calendar year of the Licensing Period of news programmes in peak viewing time shall be included in the Channel 4 Service.

...There are not less than 208 hours in each calendar year of the Licensing Period of current affairs programmes included in the Channel 4 Service...of which 80 hours shall be in peak viewing time.”

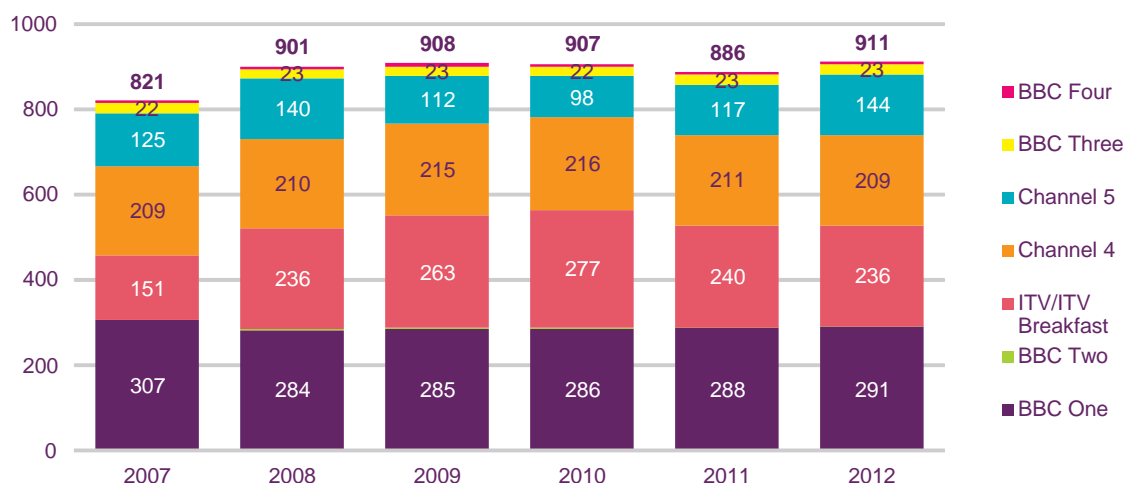
- 3.52 We have considered the extent to which condition 15 and the quotas in the Channel 4 licence remain appropriate. In doing so, we have had regard to the purposes of public service broadcasting set out in section 264 of the Act and the manner in which they should be fulfilled, and in particular:

“that [PSB] services (taken together) provide, to the extent that is appropriate for facilitating civic understanding and fair and well-informed debate on news and current affairs, a comprehensive and authoritative coverage of news and current affairs in, and in the different parts of, the United Kingdom and from around the world”²¹

²¹ Communications Act 2003 Section 264(6)(c)

3.53 Since 2010, Channel 4’s total UK news output has declined in volume. Channel 4 replaced *News at Noon* with short lunchtime bulletins in 2010 in order to be “able to concentrate its resources on the main daily programme where it can have maximum impact”.²² The main evening *Channel 4 News* bulletin therefore accounts for the almost all of Channel 4’s news output and its delivery against the minimum peak time quota of 208 hours, which it has met. BBC1 and ITV1 provide more hours of UK news programming, in both peak time and overall.

Figure 4: Volume of hours of UK news, peak time



Source: Ofcom/broadcasters

Note: UK/national News refers to network news and excludes non -network news. Does not include BBC Parliament or BBC News 24

3.54 In recent years Channel 4’s news budget has fluctuated by around 10%, reaching peak spend levels in 2009 and 2012. According to Channel 4, it allocated £23 million to news programming in 2012, a 10% increase compared to 2006 levels of investment.

3.55 We consider that the provision of UK news with a wide reach to viewers is integral to public service broadcasting. In Ofcom’s view, it is important for Channel 4 to continue to provide well-resourced news programming which ensures that the purposes are met with respect to public service broadcasting. We consider that *Channel 4 News* makes a strong and distinctive contribution to PSB delivery, particularly in its international coverage.

3.56 In the current licence period there have been substantial changes in the delivery and consumption of news through 24-hour dedicated news channels and, increasingly, online news sources. We recognise changes in viewing habits and the challenges – faced by all commercial broadcasters – in attracting and retaining audiences, particularly younger audiences, to news bulletins. Such challenges have been discussed by Ofcom and C4C as part of the annual SMCP process, as summarised by Ofcom in its letter to C4C in June 2013:

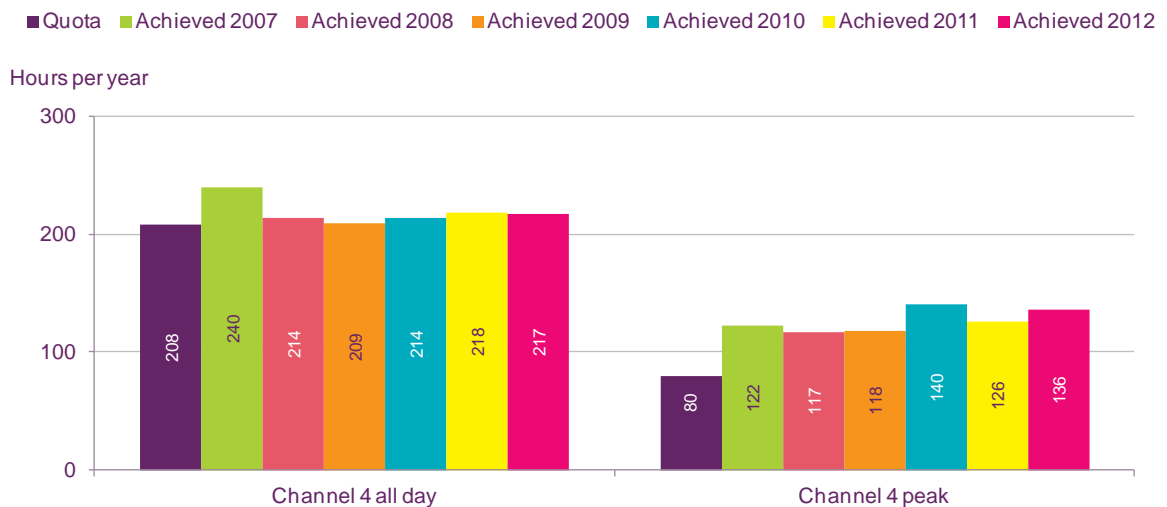
“The provision of UK news with a wide reach to viewers is integral to public service broadcasting. The Statement notes that the reach and viewing share of the main Channel 4 News bulletin has continued to decline, particularly among 16-34s. We remain of the view that the main bulletin is a high quality and distinctive programme and we recognise the steps C4C has taken to reinvigorate and promote it. We

²² Source: <http://www.channel4.com/media/documents/corporate/programme-policy/2010.pdf>

*discussed the increasing availability and consumption of news content online and on-demand, and C4C's successful engagement with younger audiences in other genres and services, and whether C4C might consider opportunities for delivering news content more effectively outside of the main bulletin and main channel, particularly to engage younger audiences.*²³

- 3.57 We therefore encourage C4C to set out and report on its wider strategy for delivery of news content as part of its SMCP.
- 3.58 We consider that the existing programme quotas for UK news on Channel 4 make it available to the largest potential audiences by being maintained in peak. Ofcom has not identified any factors which might affect Channel 4's ability to continue to meet the licence conditions. Ofcom therefore considers that the news obligations in the Channel 4 licence, including an annual quota of 208 hours of news programming in peak time, remain appropriate for inclusion in the renewed licence.
- 3.59 With respect to current affairs programming, Channel 4 has a quota of 208 hours per annum, of which a minimum of 80 hours must be in peak-time.
- 3.60 Channel 4 meets its overall quota, with delivery of 217 hours in 2012, and significantly exceeds its peak time quota, increasing delivery to 136 hours in 2012. Its volume of hours in peak time was higher than the delivery for any other PSB channel for current affairs programming broadcast in peak.

Figure 5: Delivery against current affairs quotas - all day and peak-time



Source: Ofcom/broadcasters

- 3.61 We consider that Channel 4's current affairs programming continues to make a valuable contribution to the purposes of public service broadcasting, in particular facilitating fair and well-informed debate and ensuring that there is comprehensive and authoritative coverage of current affairs in the UK and from around the world. Ofcom has not identified any factors which might affect Channel 4's ability to continue to meet the licence conditions. Ofcom therefore considers that the obligations contained in the Channel 4 licence in respect of current affairs remain appropriate for inclusion in a renewed licence.

²³ See <http://stakeholders.ofcom.org.uk/broadcasting/tv/c4/>

Channel 4's specific public service remit

3.62 Section 265 of the Act sets out the public service remit for Channel 4 as:

“the provision of a broad range of high quality and diverse programming which, in particular—

(a) demonstrates innovation, experiment and creativity in the form and content of programmes;

(b) appeals to the tastes and interests of a culturally diverse society;

(c) makes a significant contribution to meeting the need for the licensed public service channels to include programmes of an educational nature and other programmes of educative value; and

(d) exhibits a distinctive character.”

3.63 Ofcom is required to include a condition in Channel 4's licence requiring the provider to fulfil Channel 4's public service remit: it is included as Condition 7.

3.64 Additionally, C4C's remit under the DEA requires it to produce media content with a similar remit. C4C monitor and report on its performance in its annual SMCP.

3.65 In the following sections, we have considered evidence and indicators of delivery by Channel 4 of its public service remit in the current licence period. Its delivery of its education remit is discussed in a separate later section.

High quality and diverse programming

3.66 The range of high quality and diverse programming is to an extent reflected in Channel 4's commissioning across a range of original programming. While commissioning levels in total, and in different genres, varies from year to year, we note that the volume of original programmes commissioned for Channel 4 has increased in recent years and remains distributed across a range of genres. Between 2011 and 2012 the total volume of first-run original programmes increased by 7% to 3305 hours.

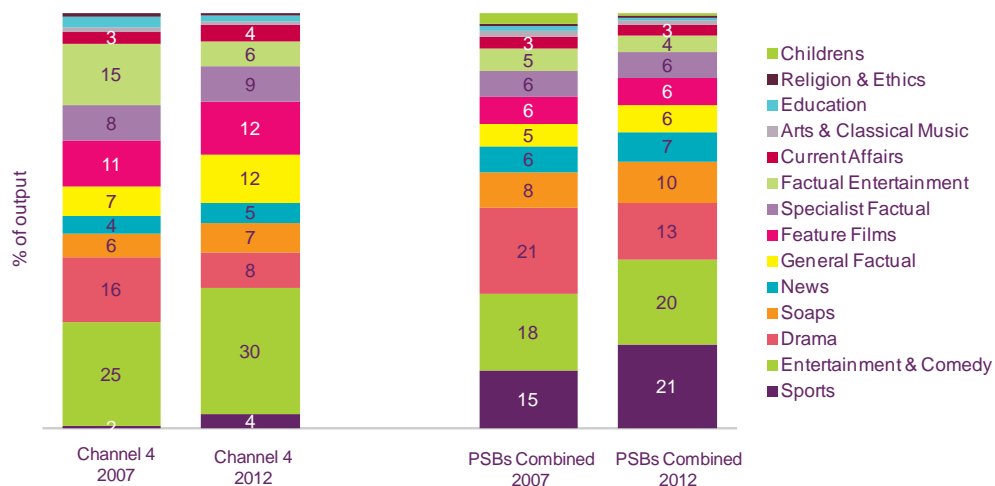
Figure 6: Channel 4 first-run originated programme hours by genre

Genre (hours)	2011	2012
Arts & Classical Music	42	47
Childrens	0	0
Current Affairs	138	140
Drama	58	37
Education	2	18
Entertainment & Comedy	990	986
Factual Entertainment	135	116
Feature Films	21	12
General Factual	520	729
News	233	234
Religion & Ethics	32	23
Soaps	129	126
Specialist Factual	278	231
Sports	511	606
TOTAL	3089	3305

Source: Ofcom/Channel 4

3.67 The range and diversity of programming is also reflected in the mix of different genres on Channel 4 when compared to other channels. A comparison of output schedules for Channel 4 against the main UK wide PSB channels (BBC1, BBC2, ITV1, Channel 4 and Channel 5) between 2007 and 2012 suggests that the range and mix of genres on Channel 4 remains different from the PSBs taken together. However, there have been some similar trends in the changes in the schedule mix: an increase in Sports programming and Entertainment, and a decrease in Drama programming (outside Soap operas) and in Education, Arts and Religious programming.

Figure 7: Main PSB channels' output by genre, all day, 2006 and 2012

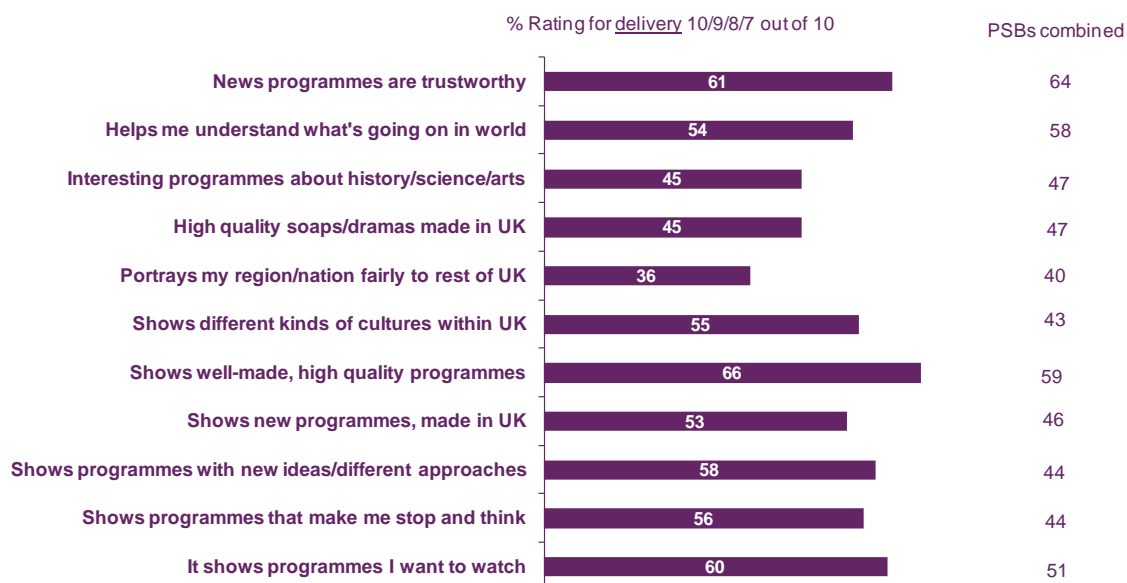


Source: Ofcom/broadcasters. PSB Combined are BBC1, BBC2, ITV/ITV Breakfast, Channel 4 and Channel 5

Innovation, experiment, creativity and distinctiveness

- 3.68 Across its schedule, Channel 4 must include programming that demonstrates innovation, experiment and creativity, appeals to the tastes and interests of a culturally diverse society, and exhibits a distinctive character.
- 3.69 Measuring these behaviours or characteristics in delivery is inherently a subjective exercise. In its annual SMCP C4C publish indicators and track the opinions of viewers on how it is performing against them.
- 3.70 Ofcom conducts similar analysis and benchmarking of viewer sentiment through its PSB Tracker – a survey based research tool.²⁴ This includes statements relevant to the PSB purposes in general and also to aspects of Channel 4’s specific remit. The figure below summarises the levels of agreement with statements by regular viewers of Channel 4, compared to the average across the main UK wide PSB channels.
- 3.71 Channel 4 benchmarks higher than the PSB average on most of the statements with relevance to its specific remit. Agreement with the statements about innovation and distinctiveness (“shows programmes with new ideas/different approaches”, “shows programmes that make me stop and think”) is higher than for the PSBs combined average. However, Channel 4 benchmarks below the average of PSBs on statements related to other obligations, such as portrayal of respondents’ nations/regions to the rest of the UK.

Figure 8: Viewer agreement with statements about Channel 4



Source: Ofcom PSB Tracker 2012

- 3.72 In addition, we have considered other indicators of how the Channel 4 schedule demonstrates its specific remit.

²⁴ For more detail on the PSB Tracker refer to <http://stakeholders.ofcom.org.uk/broadcasting/reviews-investigations/public-service-broadcasting/annrep/psb12/>

- 3.73 One indicator of Channel 4’s innovation, experiment and creativity is the number of new series and programmes broadcast. The figure below shows the total number of first run original new titles (i.e. entirely new programmes, and not a new programme of a title started in a previous year) broadcast in peak time. In 2012 the number of new programme titles had decreased by 18% since 2006, from 206 to 169 titles. This represents about half of the total number of first-run programme titles in peak-time. However, the volume of first-run hours represented by this output increased by a quarter over the same period, to 450 hours. This is due to the growth in the number of new series (as opposed to new one-off programmes) shown in 2012 compared to 2006.
- 3.74 In its 2012 Annual Report C4C report that new programme titles – particularly those broadcast in peak time – attract significant audiences and that 72% of the programmes with highest viewing figures on Channel 4 in 2012 were new programme titles.

Figure 9: Number of first-run new titles broadcast by Channel 4 in peak time



Source: Ofcom broadcaster returns. Excludes repeats. Peak time: 18:00-22:30.
 Excludes returning series, repeats and acquired material and any other first-run output, including programmes and series which form part of the core schedule of the channel (i.e. they run for 26 weeks or more per year) such as Channel 4 News and Hollyoaks.
 Definitions: One-Off Programme: any 'single' programme in the schedule;
 One-Off Programme within a Series: single programmes which are broadcast under an 'umbrella' series title;
 Mini Series: any mini-series running for 2/3 episodes;
 New Series: brand new series which has never been shown previously (4 episodes or more).

- 3.75 Another indicator of creativity and distinctiveness in the schedule are the flagship programmes highlighted by C4C in its Annual Reports and SMCP as contributing to elements of its remit. These are summarised in the table below. Although a subjective view, we consider that creative risk and distinctiveness continue to be demonstrated in such programmes.

2003	2007	2011	2012
<ul style="list-style-type: none"> • <i>Pleasureland</i> • <i>Wife swap</i> • <i>The deal</i> • <i>Time team big dig</i> • <i>Operatunity</i> • <i>Bo Selecta</i> • <i>The Hajj: greatest trip on earth</i> • <i>First World War</i> • <i>Second generation</i> • <i>That'll teach 'em</i> • <i>Mugabe's secret famine</i> • <i>YES TV</i> 	<ul style="list-style-type: none"> • <i>Richard is my boyfriend</i> • <i>The Mark of Cain</i> • <i>Secret Life</i> • <i>Skins</i> • <i>Boy A</i> • <i>Exodus</i> • <i>Britz</i> • <i>Clapham Common</i> • <i>Three minute wonders</i> • <i>The last chance kids</i> • <i>Lost for words</i> • <i>China's stolen children</i> 	<ul style="list-style-type: none"> • <i>My transsexual summer</i> • <i>Educating Essex</i> • <i>Seven dwarves</i> • <i>Random acts</i> • <i>Black mirror</i> • <i>The great British property scandal</i> • <i>Life of rhyme</i> • <i>Alternative Christmas messages</i> • <i>Top boy</i> • <i>Sri Lanka's killing fields</i> • <i>Hugh's fish fight</i> • <i>Lessons in hate and violence</i> 	<ul style="list-style-type: none"> • <i>Bank of Dave</i> • <i>4 Goes Mad (season)</i> • <i>Plane Crash</i> • <i>Everyday</i> • <i>The Imposter</i> • <i>Make Bradford British</i> • <i>Grayson Perry</i> • <i>The Undateables</i> • <i>Stand up to Cancer</i> • <i>Gok's Teens</i> • <i>Islam: the Untold Story</i>

Source: C4C Annual Reports

3.76 In summary, we consider that Channel 4's specific remit remains an important and distinctive part of the PSB framework overall. While its delivery is less straightforward to measure than quantifiable delivery against licence quotas, we consider there is evidence as set out above, and further evidence in C4C's SMCP, that Channel 4 continues to meet its specific remit. Although we recognise that commissioning and scheduling programmes to meet the remit potentially represents an increasing commercial pressure on the Channel 4 service, we consider that they are an integral part of Channel 4's appeal to viewers and have not identified any factors which might affect Channel 4's ability to continue to meet the licence conditions.

We are consulting on whether to increase the out of England (UK Nations) production quota

Relevant background and legislation

3.77 Section 288 of the Act states that the Channel 4 licence must include conditions for securing:

“(a) that what appears to OFCOM to be a suitable proportion of programmes made in the United Kingdom for viewing on Channel 4 are programmes made in the United Kingdom outside the M25 area;

(b) that the programmes for such viewing that are made in the United Kingdom outside the M25 area (taken together) constitute what appears to OFCOM to be a suitable range of programmes;

(c) that what appears to OFCOM to be a suitable proportion of the expenditure of C4C on programmes made in the United Kingdom for viewing on Channel 4 is referable to programme production at different production centres outside the M25 area; and

(d) that the different programme production centres to which that expenditure is referable constitute what appears to OFCOM to be a suitable range of such production centres.”

- 3.78 Additionally, section 264 of the Act provides that the PSBs, taken together, should:
- “include what appears to OFCOM to be a sufficient quantity of programmes that reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom.”*
- 3.79 In the PSB Review 2009, Ofcom identified that production of programmes by the PSBs in the UK Nations, that would contribute to the objective of reflecting different communities and cultural interests and traditions in the UK, was limited and should increase.
- 3.80 Ofcom therefore proposed the introduction of an out of England target for production in Scotland, Wales and Northern Ireland taken together. Ofcom noted that “it believed such an obligation is more appropriate to the BBC and Channel 4, with whose public objectives it is more closely aligned.”
- 3.81 The BBC had already announced a number of spend and production targets for out of England production. It had committed that the proportion of network spend made in Scotland would be equivalent to its share of UK population, with a comparable approach in Wales and Northern Ireland. It set an interim target that 12% of programme commissions would be spent in the UK Nations by 2012, with a target of 17% of network spend by 2016.²⁵
- 3.82 Ofcom proposed that a licence condition in the Channel 4 licence for 3% by volume and spend of production to be made out of England (from Scotland, Wales and Northern Ireland combined) would be appropriate. This would be in addition to an increased out of London quota, to which production in the UK Nations would continue to contribute.
- 3.83 Following consultation, Ofcom varied the Channel 4 licence to include the following (as part of Condition 6, by virtue of Part 1 of the Annex) conditions:
- “The Corporation shall ensure that in any calendar year at least 3 per cent of the hours of programmes made in the UK for viewing on the Channel 4 Service shall be produced outside England.*
- The Corporation shall ensure that in any calendar year at least 3 per cent of its expenditure on programmes made in the UK for viewing on the Channel 4 Service shall be allocated to the production of programmes outside England.”*
- 3.84 In setting the licence condition and level of the quota, Ofcom set out the following rationale²⁶:
- That progress in commissioning both English independent producers outside London and independent producers in the devolved Nations above the quota levels is a priority for Channel 4, as a publicly owned institution.

²⁵ http://www.bbc.co.uk/bbctrust/news/press_releases/2008/network_nations.html

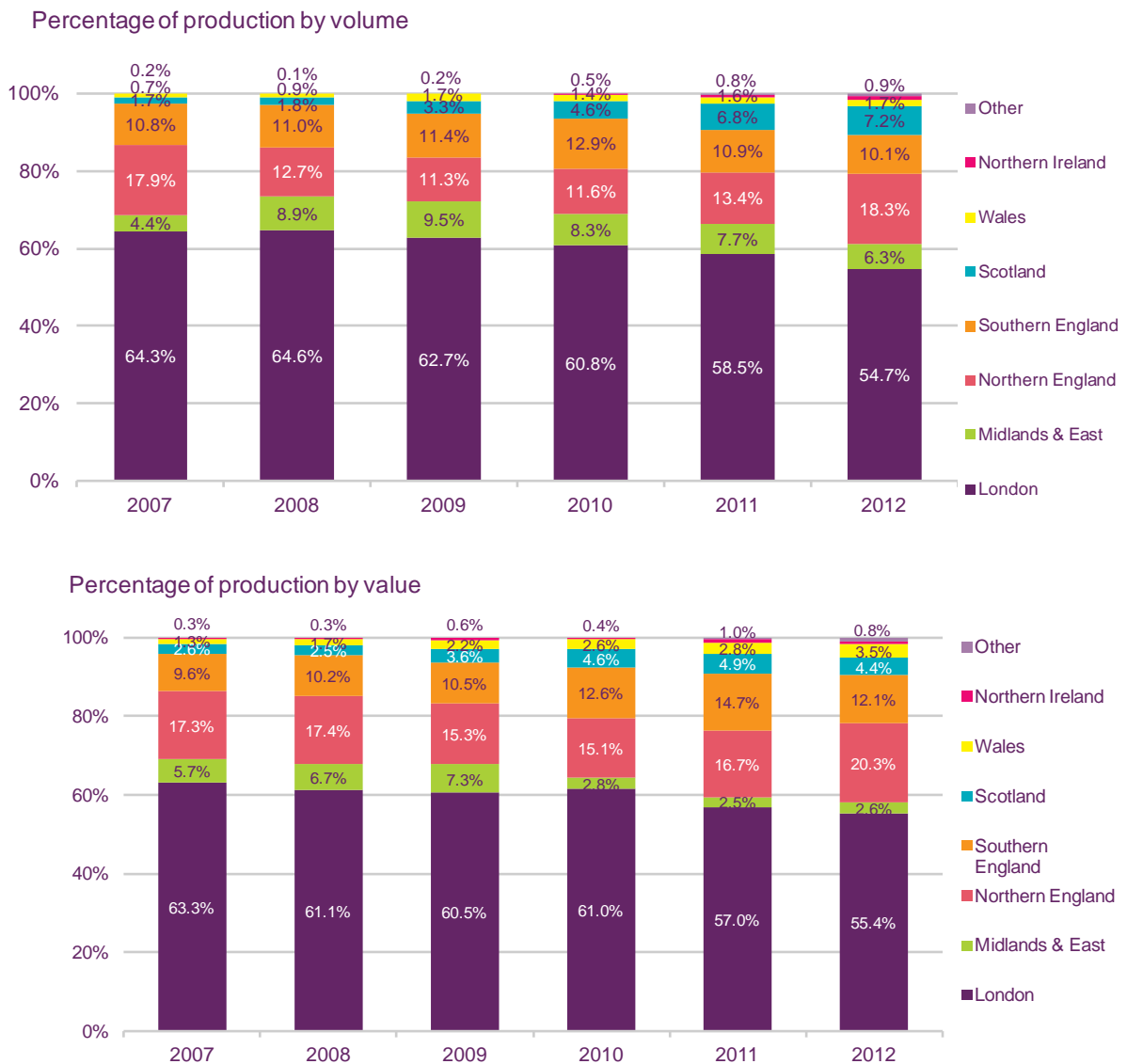
²⁶ http://stakeholders.ofcom.org.uk/binaries/consultations/psb2_phase2/statement/shortterm.pdf P.10

- The BBC has a target of 50% out of London production by 2016. Ofcom considered that this would be a challenging objective for a broadcaster such as Channel 4, without production bases of its own – either in London or elsewhere – though expected that this situation might change as the BBC increased the proportion of its much larger budget for independents.
- Ofcom agreed with respondents that the proposed quota of 3% production from the nations of Scotland, Wales and Northern Ireland represented a small figure, when set against the 17% of UK population living in those nations.
- The 3% figure for the Nations quota was originally put forward by Channel 4 itself, and Ofcom accepted that further effective development of production ‘clusters’ around the nations of the UK may take a little time.
- It was inappropriate to set higher quota levels at a point where the future direction of Channel 4 (prior to the DEA) remained unclear and while the BBC was developing the detail of its plans for out of London production.

3.85 Since the PSB Review 2009, there have been advances in out of England (UK Nations production) for the PSBs taken together. By volume, productions in Northern Ireland, Wales and Scotland increased from 2.6% of network output in 2007 to 9.8% in 2012. By spend, UK Nations production increased from 4.2% in 2007 to 8.7% in 2012.

3.86 This increase has been mainly led by the BBC, which doubled its production in the UK Nations between 2007 and 2010, to account for over a third of the BBC’s out of London commissions.

Figure 10: Total PSB qualifying production by region/nation



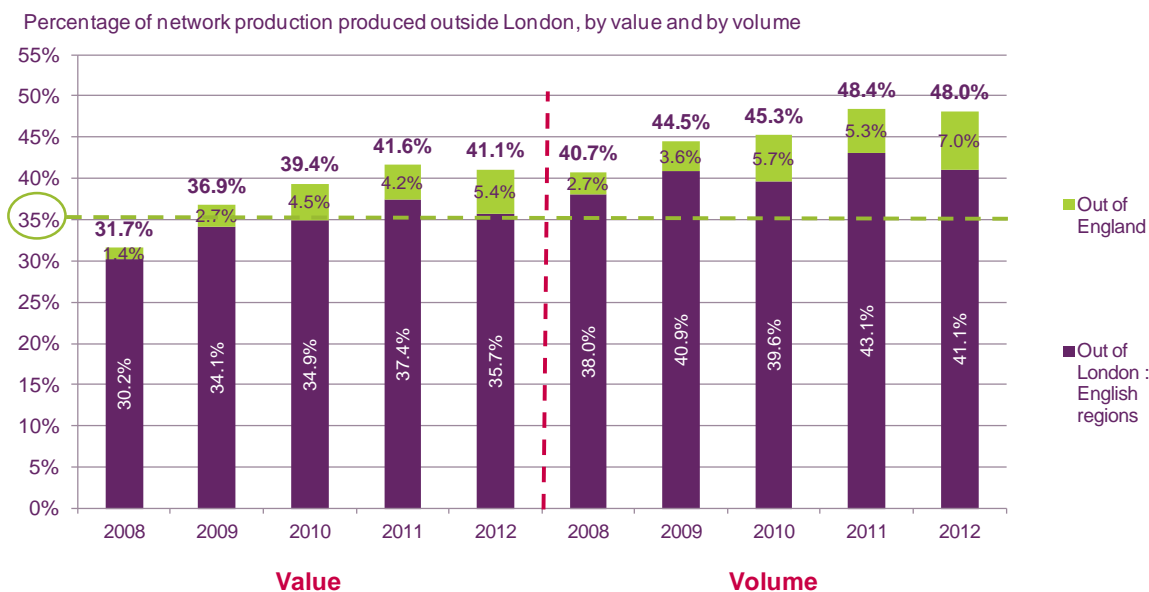
Source: Ofcom/broadcasters

Note: A new category 'Multi Nation/Region production' has been created for Regional Productions from London Producers which do not meet both 70% of spend and 50% of talent in any one particular Macro Region' See

http://stakeholders.ofcom.org.uk/broadcasting/guidance/programme-guidance/reg_prod/ on Ofcom website for further details.

- 3.87 Following the introduction of the out of England quota, in 2010 Channel 4 reported 4.5% by spend and 5.7% by volume of production was made out of England. In 2011, production out of England accounted for 4.2% by spend and 5.3% by volume. In 2012 Channel 4 increased delivery against the quota to 5.4% by spend and 7% by volume.
- 3.88 As set out in the figure below, this was in the context of out of London production being increased significantly from 2009 to 2011, and substantially maintained in 2012. Within this, the share of Channel 4 production in the North of England has increased as well as in the UK Nations, while the share of production in the Midlands and South of England has moderately declined.

Figure 11: Channel 4 delivery against the out of London and out of England production quotas, 2008-2012



Source: Ofcom/broadcasters

3.89 Ofcom drew attention to the issue of progress above the minimum quota, and C4C’s contribution to production in the UK Nations more broadly, in letters following publication of C4C’s SMCP in 2012 and 2013.

3.90 In the 2012 letter to C4C²⁷, Ofcom stated that:

“(The 3% quota) minimum commitment took into account Channel 4’s existing commissioning pattern, but with an expectation that, as a UK public service broadcaster with a particular remit for diversity in production sources and representation on screen, commissioning in the UK Nations would progressively increase. Although the target has been exceeded in 2011, the proportion of production in the UK Nations has fallen compared with 2010. This is disappointing in the context of the overall increase in Out of London production for Channel 4, and growth in content investment in the UK Nations more widely. We will therefore look to C4C to review its commissioning strategy in this respect and for a commitment to sustainable increases in production in the UK Nations – both in TV production and other digital content investment – for 2012 and the years ahead.”

3.91 In the 2013 letter to C4C²⁸, Ofcom stated that:

“We recognise that C4C has increased the volume and spend of production from out of England in 2012, and is developing its strategy more widely for investing in and commissioning content from the UK Nations. We consider that this should include not just increases in content output, but also a consideration of how C4C can best meet, and measure, delivery of its remit to contribute to the production of programmes that reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom.”

²⁷ Ofcom letter of 11th May 2012 to C4C. <http://stakeholders.ofcom.org.uk/broadcasting/tv/c4/>

²⁸ Ofcom letter of 12th June 2013 to C4C. <http://stakeholders.ofcom.org.uk/broadcasting/tv/c4/>

C4C's submission

- 3.92 In its submission made in the context of this consultation, C4C state that it is committed to commissioning the best ideas and working with a range of suppliers from across the UK, and in this respect is committed to increasing its investment in, and support for, production outside London, and in particular production in the devolved Nations.
- 3.93 C4C has set out plans to increase production out of England. C4C proposes to put in place a phased increase in commissioning from the Nations to achieve a level of 9% by 2020. It has suggested that this represents a stretching, but sustainable, minimum target for Nations production for the following reasons:
- Channel 4 must commission programmes across a range of genres and types of programming. Nearly half of Channel 4's commissioning is committed to long running returning series. This means that, as with all producers, the opportunities to migrate production in the Nations quickly is limited.
 - Unlike the BBC, Channel 4 cannot move its own in-house production resources in order to meet this target. Delivery of growth in Nations production is dependent on the independent production sector in the Nations winning commissions.
 - C4C considers that, while growing, there is a relatively small number of independent producers of scale based in the Nations. While producers are strong in many genres, particularly Factual and Documentaries, there is less experience in producing programmes in genres that are typically higher-spend and returning series, such as Drama, Factual Entertainment and longer-running Comedy.
- 3.94 C4C considers that while it is committed to developing opportunities and engagement with Nations producers, only an incremental increase in the out of England production quota between 2014 to 2020 would be likely to be sustainable. C4C therefore propose that only the 9% target by 2020 is set on the face of the licence as a quota.
- 3.95 Outside of the Channel 4 service, C4C also proposes to mirror the proportion of commissioning out of London and in the Nations as far as possible in commissioning across its other services. In 2012, C4C reported spend out of England across all its services of £21m, an increase of 37% from 2011. C4C also highlight the additional contribution to production in the Nations via the Alpha Fund for first-time producers and Film4 production investment. C4C also highlights initiatives such as its Independent Producers Access Plan to engage with new producers, including those outside of London and in the Nations.

Ofcom's analysis

- 3.96 The licence renewal process allows a review of the effectiveness of the out of England quota since its introduction, and whether an amendment to the quota is appropriate. In doing so, we consider in this section:
- The rationale for a separate out of England quota for Channel 4;
 - Its contribution to Channel 4's public service remit and public service objectives more broadly;

- The current, and potential, benefit to viewers;
- The potential impact of an increase in the quota; and
- Potential options for conditions for the renewed licence.

3.97 In commissioning programmes out of London, Channel 4 is required to use a range of production centres. In addition Channel 4 is obliged (together with the other public service broadcasters) to include a sufficient quantity of programmes that reflect different communities and cultural interests and traditions within the United Kingdom. C4C's public service remit requires it to provide programming which appeals to the tastes and interests of a culturally diverse society.

3.98 We consider that the rationale for the introduction of the out of England production quota set out in the PSB Review 2009 remains relevant. Without specific intervention, there is a tendency for production to become concentrated in a limited range of centres. The out of London quota, in itself, does not guarantee a distribution of production around the UK. The BBC, for example, has set further targets and made significant investment over an extended period to secure wider dispersal of production. This has put foundations in place in, for example, Salford, Cardiff and Glasgow, for 'creative clusters' to develop. The limited progress by Channel 4 above the quota suggests that, to deliver sufficient and sustainable scale, a specific target for out of England production remains appropriate.

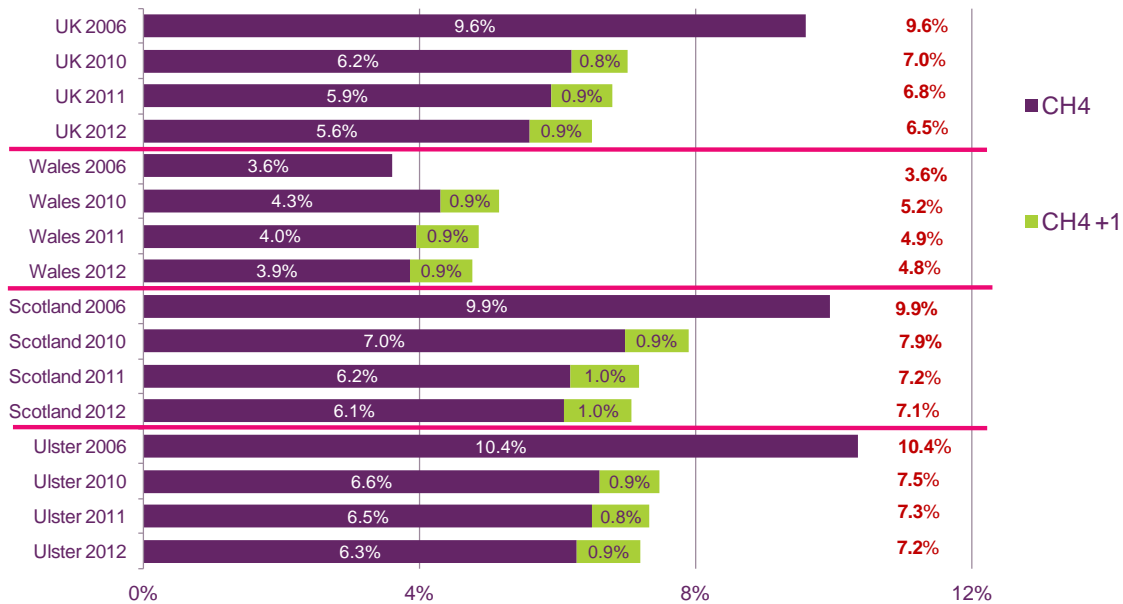
3.99 We also consider that programmes produced to meet the quota are likely to contribute to the objective to reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom. It will also contribute to the remit to appeal to a culturally diverse society. While the reflection of a particular culture or community is not guaranteed by the location of production – and it is also possible in programming produced elsewhere – we consider that it is more likely in programming produced in a particular locality, and that this is less likely to develop without intervention.

3.100 In our view, the licence quota for out of England enhances delivery of these objectives and elements of the remit, and these could potentially be increased by an increase to the quota level.

3.101 We have also considered the evidence for benefits to viewers since the introduction of the quota.

3.102 From the available research today, we note that, in the main, viewers in the UK Nations are as likely to watch Channel 4 as viewers in England, and that this has been the case before and after the introduction of the out of England quota in 2010. Viewing data suggests that Channel 4 has a slightly higher viewing share among viewers in Scotland and Northern Ireland compared to viewers across the UK overall. This suggests that viewers in these UK Nations view or benefit equally from Channel 4's service compared to the average UK viewer.

3.103 The exception is in Wales, where viewing share for Channel 4 is lower than the UK average. This difference may be partly explained by the fact that S4C is the dedicated Wales service on the 4th channel position, and prior to digital switch-over, Channel 4 was not available in all Welsh households. However, since the completion of digital switch-over, as a result of which Channel 4 is available to all digital TV households, its viewing share in Wales has remained below the UK average.

Figure 12: Channel 4 viewing share for viewers in the UK nations

Source: BARB, Individuals 4+, Network, ITV regions HTV Wales, Scotland and Ulster. S4C is included in C4 Corporation share is included Note: New BARB panel introduced 1st Jan 2010. As a result pre and post panel change data must be treated with caution

- 3.104 A further measure of Channel 4's value and impact for viewers is the responses to Ofcom's PSB Tracker statements with relevance to production in the UK Nations. The responses can serve as an indicator of how viewers in Scotland, Northern Ireland and Wales perceive certain characteristics of Channel 4 that relate to production in the UK and reflection of different communities and cultures.
- 3.105 The levels of agreement among viewers in the Nations with statements that Channel 4 "shows different kinds of cultures within UK" or "shows new programmes made in the UK" are similar to those among viewers in England and higher than the benchmark for the other PSBs. However, the response to the statement for "portrayal of my region/nation" for Channel 4 is below the PSB average for all viewers, and for Channel 4 viewers in the Nations it tends to be lower than for viewers overall. This indicates that, while viewers in the Nations consider Channel 4 to show different cultures in the UK in general, they may consider that Channel 4 reflects their own Nation less than other PSB services.
- 3.106 This suggests that viewers may benefit from a change to the quota that affects the content produced under it and where it reflects their own Nation, but that this should be in the context of the value of Channel 4's service to viewers overall.
- 3.107 We have therefore considered the merits and impact of a potential increase in the out of England quota to enhance delivery of Channel 4's remit and benefit to viewers.
- 3.108 An increase in production in the quota would mean that more productions would need to meet the qualifying criteria of being made out of England. The criteria are designed to ensure use of local resources in the making of the programme including the production base, production spend and use of production talent.²⁹ These criteria support, but do not necessitate, portrayal on screen of the culture of the locality in which a qualifying programme is made. Additionally, portrayal and reflection of an area lends itself to some genres of programming (e.g. drama or comedy) more than

²⁹ http://stakeholders.ofcom.org.uk/broadcasting/guidance/programme-guidance/reg_prod/

others (e.g. animation): these genres may not be a strength of producers in a given Nation.

- 3.109 Reflection and portrayal may be supported by other initiatives and in other forms of content, and close attention to the representation of different communities and a diversity of cultures. The SMCP allows for C4C to set further measures for representation and reflection of the Nations, and to track attitudes toward this among viewers, across its services. We consider C4C should consider such measures regardless of the level of the quota on the Channel 4 service.
- 3.110 We are also mindful of Channel 4's requirement to meet a range of licence conditions in respect of its production out of London and out of England, and also its other licence conditions. We recognise that C4C's proposed increase to a 9% target would represent a significant increase and a commercial challenge. While C4C does not have the same scale, or ability to move production in-house, as the BBC, it is able to influence the basis for production in the commissioning decisions it makes. We recognise that meeting the target relies on independent producers in the Nations delivering increasing volumes of commissions across a range of genres, which implies successful returning series. We consider that, over time, this may well be supported by meeting a higher licence quota as this would require sustained, increased investment and development in the sector, but recognise that there are challenges for C4C in progressing toward this.
- 3.111 There is also potential impact from a change to the quota on other out of London productions. An increase in UK Nations production investment may result in less production in the English regions. The shift may compromise commissioning on pure merit, and could lead to increased output in genres where the producers in the UK Nations have a stronger track record (e.g. factual, documentaries) in preference to other genres. This would not necessarily support the objectives of the intervention in out of London and out of England production, or enhance delivery of the remit or benefit of viewers overall.
- 3.112 In summary, we consider that the rationale for Channel 4's out of England quota remains, and there is the potential for enhancement to delivery of its objectives and remit, and benefits to its viewers, from an increase in the out of England quota level. However, we are mindful of commercial implications and other considerations for C4C and other stakeholders of a significant increase in the licence quota.
- 3.113 We have therefore considered options, and alternatives, for an increase in the out of England quota in the Channel 4 licence. Broadly, there appear to be three options in setting the licence condition:
1. An increase in the out of England quota over the time period and to the level proposed by C4C i.e. to a level of 9% by 2020.
 2. An increase in the out of England quota to a different level – potentially to a lower or higher level than C4C's proposal - or over a different time period.
 3. To leave the existing quota unchanged at the level of 3%.
- 3.114 Outside of the licence conditions, a further option is that the SMCP could be used by C4C to set and report on targets for the coming year, and potentially in the longer term, for increasing UK Nations production year-on-year on Channel 4 and its other services. This would allow C4C to set, and deliver against, incremental targets in production in the UK Nations, but in doing so it could take account and respond to

additional measures of reflection of cultures and communities, and audience response. The target could also be set in the context of C4C's investment in content from the UK Nations across its services. Ofcom would be consulted on C4C's proposals and delivery against its targets year-on-year as part of the SMCP process.

- 3.115 We would welcome views on whether to increase the out of England production quota – and if so what the appropriate rate of increase and level of the quota should be, and the reasons for adopting these – as part of this consultation.

Consultation question 2: Do you consider it would be appropriate to increase the out of England quota on the Channel 4 service? If so, please set out the reasons for setting a particular level for the quota and for the rate of increase to this level?

We propose to leave the existing schools programming quota unchanged, but are seeking views on how the Channel 4 service may deliver its remit for education

Relevant background and legislation

- 3.116 Section 264 of the Act requires that the PSB services:

“(taken together) include what appears to OFCOM to be a suitable quantity and range of programmes on educational matters, of programmes of an educational nature and of other programmes of educative value”.

- 3.117 Channel 4's public service remit requires it to provide programming which “makes a significant contribution to meeting the need for the licensed public service channels to include programmes of an educational nature and other programmes of educative value.”³⁰

- 3.118 In addition to this, section 296 of the Act requires Ofcom to set the conditions that it considers appropriate *“for securing that what appears to them to be a suitable proportion of the programmes which are included in Channel 4 are schools programmes.”* Schools programming is not defined as a particular genre or content type, but as programmes that are intended for use in schools. In determining what proportion of programmes should be schools programmes: *“OFCOM must take into account services, facilities and materials which C4C provide to schools, or make available for schools, otherwise than by the inclusion of programmes in Channel 4.”*

- 3.119 In the PSB Review 2009, Ofcom considered the delivery of education content and programming for school age children. In its analysis Ofcom noted:

- Its viewer research suggested that audiences thought schools programming could be effectively provided online.
- There is a vast wealth of educational material available online which schools, as well as individuals, are increasingly turning to in order to exploit its flexibility and interactivity and its capacity to serve niche interests.
- The schools part of the public service broadcasting remit may be much more effectively fulfilled by filling specific gaps in provision of public service content

³⁰ The programme quota related to this obligation was removed when the licence was renewed in 2004.

online, particularly with content relevant to a UK perspective, or to supporting individuals and educational institutions to navigate their way round the vast store of information available.

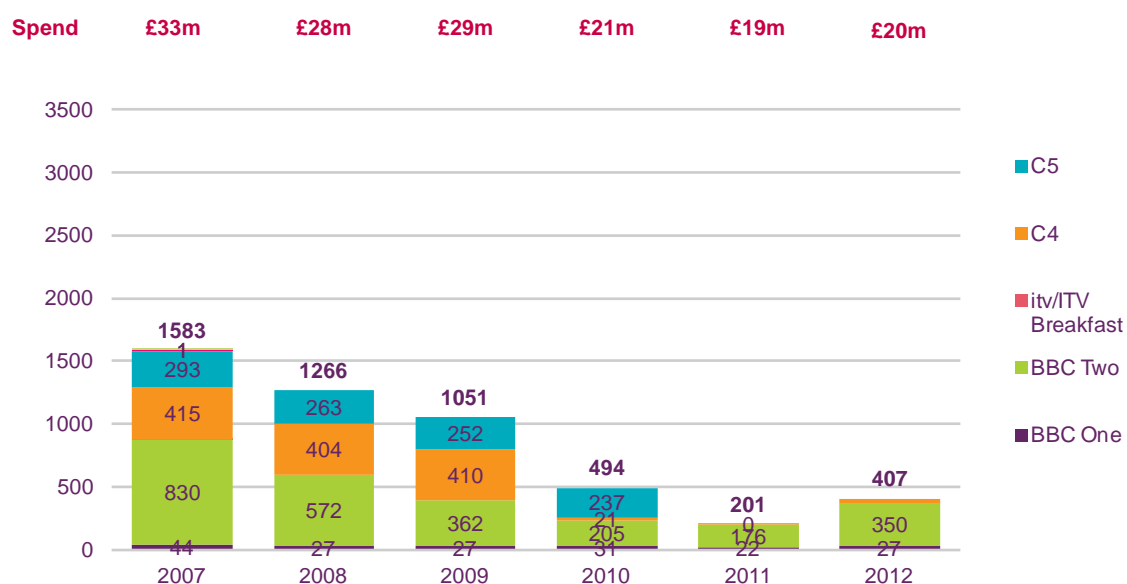
- Channel 4 has taken encouraging steps in this direction, investing a growing proportion of its budget for schools programming in online delivery and ventures which enables teachers and students to communicate and collaborate.

3.120 Ofcom subsequently varied the Channel 4 licence in 2010 to require C4C (in Condition 10, by virtue of Part 1 of the Annex) to “transmit at least half an hour of schools programmes, excluding presentation material, in each calendar year.”

3.121 This reduced the Schools programming quota from 330 hours per annum to a minimal level of half an hour per annum. Ofcom considered it was not able to set a zero level for the quota as this would be an effective removal of an obligation set in legislation.

3.122 In recent years the PSBs have increasingly delivered education content to viewers online, and also by including educative aspects across other genres of programming, particularly in factual programming. Output of formal education programming, which includes schools programming, has therefore declined by more than 1,000 hours since 2007 – principally due to its reduction on BBC2, Channel 4 and Channel 5. In 2012 Channel 4 broadcast 24 hours of schools programming.

Figure 13: Formal education output hours by the main PSB channels



Source: Ofcom/broadcasters

Note: Formal Education programmes include Schools and the BBC Learning Zone. Other programmes from all broadcasters across a variety of genres include Learning Support materials. Spend is given in 2012 prices and includes BBC digital portfolio channels

3.123 Total spend across the PSBs on formal education programming on linear TV has also fallen: on the main PSB channels it declined in real terms from £33m to £20m between 2006 and 2012, a reduction of 38%. Viewing to formal education programming on the PSBs has declined from an average of 2.1 hours per individual in 2006 to 0.1 hours in 2012.

- 3.124 In its 2012 Annual Report, C4C stated that its current plan is to fulfil its 'broad education remit through TV programmes on the main channel, enhanced with accompanying multi-platform content'.
- 3.125 In terms of specific provision of educational content for 14-19 year olds, C4C has in recent years focused delivery online in the form of standalone online education properties (dedicated websites and applications with audio-visual material).
- 3.126 Separately, C4C has a remit to provide content for older children and young adults.
- 3.127 According to C4C's 2012 Annual Report, £7m was allocated to educational content and content for older children, a fall from £10m in 2011.
- 3.128 C4C's reporting suggests that, to date, consumption of online education content has been limited. C4C's analysis indicates that the total number of visitors to the online education properties increased in 2012 to over 1m, but with the average dwell time across all projects falling since 2010 (to a 10 minute average per viewer). The most recognised and well used education brands remain re-purposed from TV series – 'Battlefront' and 'The Sex Education Show'.
- 3.129 C4C acknowledges that television remains an important platform and is reviewing its education delivery strategy in this light. There is evidence in the 2012 Annual Report that a re-appraisal of the strategy, which has seen an increase in broadcast TV hours, has seen an increase in their viewing, and there has also been an increase in reach of the online education properties.
- 3.130 Ofcom noted this in its letter to C4C following publication of the 2012 Annual Report:³¹

"In the last year C4C has revised its strategy for delivery of education content, and there is evidence in the Statement that combining an increased number of TV broadcast programmes and brands with non-linear projects has been successful in increasing reach to this target audience. We would welcome C4C's commitment to sustaining investment in original education content for this particular age group, and consider that it remains important that C4C develops a clear strategy, backed by suitable metrics, for both consumption and audience outcomes."

C4C's submission

- 3.131 In terms of the schools quota specifically, C4C consider the changes to the licence condition in 2010 "enable Channel 4 to innovate in the delivery of its schools output", and proposes to continue with a strategy for delivery that combines the impact of TV delivery with online resources.
- 3.132 As part of this, C4C is recalibrating education content delivery to use the impact of television and its major programme brands with associated online properties to greater effect. C4C propose to maintain its educational budget for the 14-19 year old audience at around £4m per year.
- 3.133 C4C has suggested that, were the legislation governing its remit to change, the specific licence obligation for Schools programming might be removed altogether in favour of a broader educational remit aimed at young adults across C4C's services.

³¹ Letter of 12th June 2013 to C4C: <http://stakeholders.ofcom.org.uk/broadcasting/tv/c4/>

Ofcom's analysis

- 3.134 The licence renewal process allows a review of the effectiveness of the existing schools programming quota since it was amended, and whether further amendments to the obligation are appropriate.
- 3.135 The licence change in 2010 was made in recognition of the potential for online delivery and changing consumption patterns of the target audience, and that as such online education content would be more readily available, appealing and promoted to the target age-group for schools programming.
- 3.136 C4C's strategy for delivery of education content is still being established, and as set out in its submission and 2012 SMCP, C4C is innovating in the content it commissions and how it is distributed and cross-promoted between online and TV delivery. As noted in the letter of 2013, we would look to C4C to establish a set of measures within its SMCP to benchmark its delivery of education content to this particular audience.
- 3.137 A schools programming licence quota may therefore be of diminishing relevance in the context of C4C's delivery of educational content overall. However, we note that the licence condition is not a regulatory burden or a barrier to this if set at a minimal level.
- 3.138 We recognise that, in this context, there might be a case for removing the licence condition entirely from Channel 4, or changing it to a quota for education content for older children and younger adults. However, a removal of, or amendment to, the quota would require a change to the legislation and would be a matter for Parliament to consider.
- 3.139 We therefore propose to leave the existing minimum licence conditions in place. We would welcome views from stakeholders on how best the Channel 4 service may deliver its remit for education, and whether the licence conditions are appropriate to this.

Consultation question 3: Do you agree with our proposal to leave the existing licence condition for schools programming unchanged? What role do you consider the main Channel 4 service should play in delivery of its education remit? Are the existing licence conditions appropriate to this?

Section 4

The sustainability and proposed duration of the licence

- 4.1 The continued provision of Channel 4 and fulfilment of its public service remit are the primary statutory duties of C4C.
- 4.2 As a commercially funded, publicly owned corporation, C4C must balance maximising delivery of the Channel 4 service and licence obligations, and its wider public service remit, with its appeal to viewers and advertisers, on which its services rely for the majority of revenue.
- 4.3 The current licence period has seen significant changes for the market Channel 4 operates in. Digital TV switchover has brought multi-channel television and more competition into every household in the UK. The reach and share of viewing to the main PSB services has declined, but has increased for their 'portfolio' channels.
- 4.4 As a result, C4C's cross-subsidy model for the Channel 4 service has evolved to include its portfolio services, which has allowed it to continue to subsidise Channel 4 and delivery of its licence obligations.
- 4.5 The next licence period may see as much, if not more, change in the market that Channel 4 operates in. There are likely to be further challenges to the commercial model for Channel 4 and its licence obligations.
- 4.6 As part of its submission, C4C has provided a financial plan to deliver the Channel 4 service and to sustain the licence conditions under a renewed licence. This includes contingency plans to maintain delivery of licence obligations in the event of a decline in commercial revenues on either a cyclical or structural basis. We consider C4C's financial plan is credible, and its submission that the licence obligations can be maintained is realistic.
- 4.7 C4C has submitted that its "strongly preferred" licence duration is ten years, as it considers this is necessary for greater business continuity and certainty in making necessary investments in distribution and content to safeguard the operating model for the service.
- 4.8 Challenges and uncertainties in the next licence period may increase the risks to C4C's operating model, and the cross-subsidy of Channel 4 and its licence obligations, and require C4C to make significant investments to adapt to circumstances. Business certainty is an advantage in this respect.
- 4.9 A relevant factor is that, as set out in our recent report to the Secretary of State³², the Channel 3 and 5 licence holders will have the certainty of a ten-year licence period.
- 4.10 Although C4C does not have the same degree of regulatory uncertainty as these licensees (because the Channel 4 licence can only be held by C4C), we consider that a short licence period may adversely affect C4C's business planning, and thus impair

³² Ofcom has recently published its report to the Secretary of State on the renewal of Channel 3 and Channel 5 licences. <http://stakeholders.ofcom.org.uk/broadcasting/tv/c3-c5-licensing>

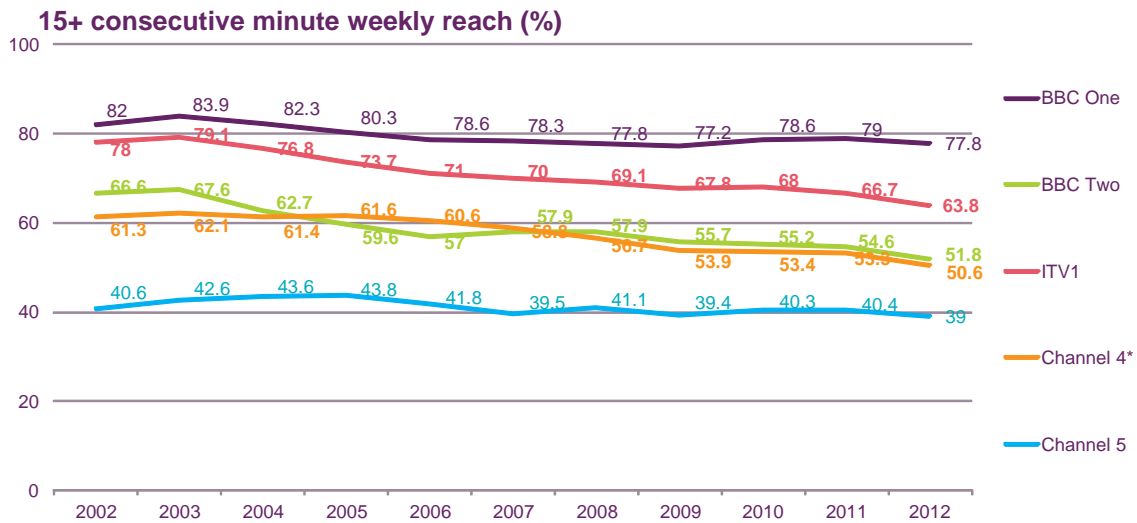
delivery of its remit. There is also the issue of the resource and distraction for C4C in repeating a licence renewal process frequently.

- 4.11 On the other hand, if Channel 4's licence was longer than others in the wider PSB framework, it may introduce inflexibility in that framework, or in relation to particular licence conditions. There are likely to be challenges to the public service broadcasters and PSB framework in future, although any changes to the framework would be for Parliament to consider.
- 4.12 Based on our proposals that the licence conditions should broadly be maintained, and C4C's submission that they are sustainable and will be delivered for its duration, we therefore propose that the Channel 4 licence should be renewed for a ten year period from its expiry in 2014.

Market changes in the current licence period

- 4.13 Historically, Channel 4 has been operated on a cross-subsidy basis whereby commercially orientated original programming and acquisitions on the channel offset investment in less profitable or loss-making original content delivering significant public service value, such as UK news, current affairs and education, and the channel's specific remit, with the commercial risks this entails.
- 4.14 The current licence period has been one of great change for the market Channel 4 operates in. The increase in pay TV subscribers and digital TV switchover has brought multi-channel television and with it more competition between channels for viewing into every household in the UK. The number of TV platforms through which Channel 4 is distributed, and the number of competing channels on those platforms, has considerably increased.
- 4.15 The reach of the main PSB services to viewers has declined. Channel 4's average weekly reach has fallen from 61% in 2006 to 51% in 2012. The rate of decline is broadly comparable to that of BBC Two over the same period. Similarly, although the main PSB services remain the most watched channels in the UK, representing over 50% of share of viewing in all homes, this is also declining.

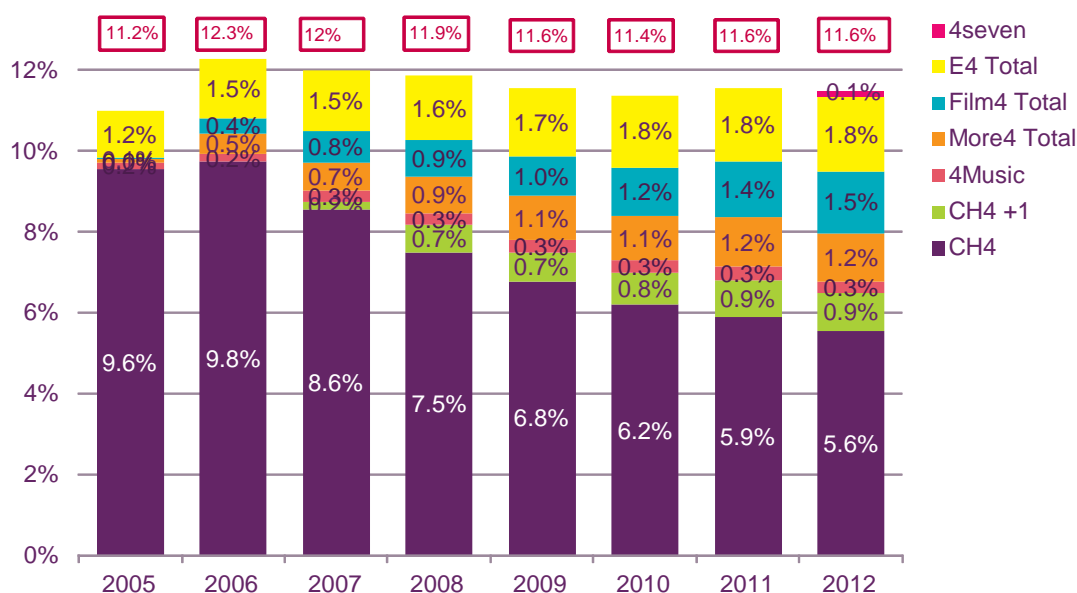
Figure 14: TV household reach of main PSB channels



Source: BARB . All Individuals, Network. Main five PSB channels include HD variants but exclude +1 channels
 - Reach criteria = 15 consecutive minutes of viewing at least once in the average week. Full weeks used.
 - *C4 2006-09 includes S4C; from 2010 it is excluded as S4C became a separate channel following DSO in Wales.
 - New BARB panel introduced 1st Jan 2010. As a result pre and post panel change data must be treated with caution

- 4.16 As the level of choice available to viewers has led to increasing audience fragmentation, C4C, as with the other PSB groups, has launched a number of portfolio channel services. In 1998 C4C launched *FilmFour* as a separate channel. C4C has subsequently invested further in its portfolio of channels by launching *E4* (2001), *More4* (2005) and *4Music* (2008). Since 2006, the full portfolio of C4C’s channels has been made available free-to-air across the main digital TV platforms. C4C have also launched +1 hour and HD versions of some of these channels on other digital platforms, and in 2012 launched *4Seven* which repeats selected programming from Channel 4 over a 7 day period.
- 4.17 Taken as a whole, the C4C group of channels’ audience share since 2009 has been level at c.11.5%. Within this, the portfolio channels outside of the main Channel 4 service account for an increasing proportion of this share, and half of the viewing share to C4C services in 2012. This is a higher proportion of viewing to the portfolio channels than for the other PSB broadcaster groups. In 2012, Channel 4 accounted for 5.6% of total UK TV household viewing share: the +1 hour and HD services that simulcast the Channel 4 schedule added a further 1% viewing share, to total 6.6%.

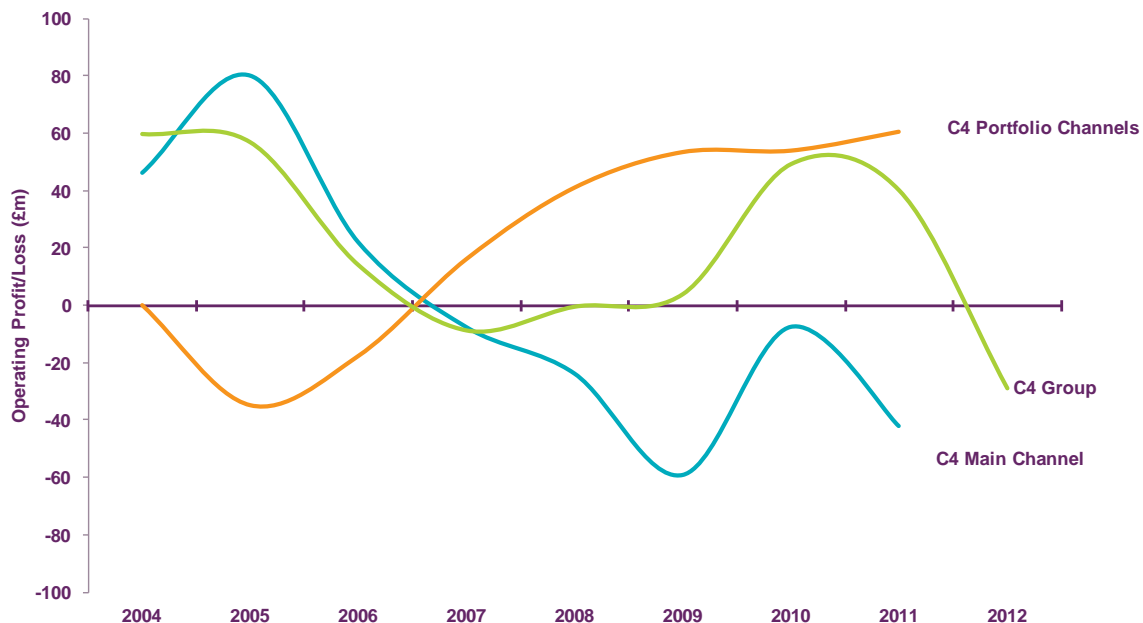
Figure 15: TV household viewing share for C4C services



Source: BARB, All individuals 4+, Network
 •C4 data 2006-09 includes S4C; from 2010 it is excluded as S4C became a separate channel following DSO in Wales.
 •New BARB panel introduced 1st Jan 2010. As a result pre and post panel change data must be viewed with caution

- 4.18 C4C’s portfolio channels do not have PSB status or licence obligations. However, they contribute to C4C’s delivery of its remit in two ways: providing a profitable return that helps support investment in public service content, including the licence obligations on Channel 4, and providing additional ways to reach and engage viewers with ‘Channel 4’ branded content. Following the DEA in 2010, C4C’s remit extends to include obligations to provide specified media content which may be provided through its portfolio channels and on-demand services. The portfolio services are therefore additional means by which C4C can deliver its remit, for example, in UK Film and Education.
- 4.19 The profitability of its portfolio services and exploitation of secondary rights (for example, UK film in cinema and on DVD, and on-demand services) has meant that C4C has been able to sustain its cash reserves and content investment. As a result, it has been able to fund increases in content investment, focused on Channel 4, from previous surpluses.
- 4.20 The main Channel 4 service has, since 2006, operated at a loss. C4C’s financial statements suggest that the losses for Channel 4 increased to £42m in 2011, from £8m in 2010. The losses are likely to have increased further in 2012 as investment in content for the Channel 4 service has led to an increased loss for C4C overall. In its Annual Report for 2012, C4C reported an increase in total content investment to £608m, of which £434m was original content, with £387m of this original programming on the main Channel 4 service. As a result C4C announced a planned deficit of £29 million for 2012, with plans to maintain high levels of investment in content, potentially incurring a similar deficit, in 2013.

Figure 16: Operating profit/loss for Channel 4 and C4C portfolio channels, 2004 to 2012



Source: Ofcom analysis of C4C Annual reports. Separate segments for Channel 4 and Portfolio channels were not reported in 2012 due to revised financial statement arrangements.

Market challenges in the next licence period

- 4.21 We consider that the next licence period may see as much, if not more, change and challenges in the market that C4C and Channel 4 operate in.
- 4.22 Increases in broadband penetration are making internet-delivered non-linear, on-demand services more viable and widely available. The fast increasing penetration of devices capable of delivering video on demand (VoD) and other audio-visual services has generally proved to provide audiences with more viewing opportunities, rather than competing directly with linear broadcast services. However, the balance of linear broadcast consumption and non-linear viewing may change as options for viewing proliferate, and the commercial revenues to broadcasters may change as a result.
- 4.23 The ways of navigation and content discovery by viewers are also multiplying outside of the limits of a scheduled broadcast channel and its position in linear TV guides. This may serve to reinforce the value of familiar brands and channel positions for viewers, but could also lead to fragmentation of viewing away from scheduled TV and linear channels, and an increasing need for broadcasters to invest to reach and understand their audience across a number of platforms.
- 4.24 The main sources of content for C4C – the UK independent production sector, and content made outside of the UK – are growing in scale and increasingly operate as part of a competitive, global market for content. Non-PSB broadcasters are acquiring rights to programmes and investing in original production at significant scale. Deficit financing of production by producers and distributors is increasingly common, but may be based on the production's potential for the global market rather than the UK itself. Going forward, this may lead to greater complexities or costs in commissioning or securing content primarily for the UK market, or content that meets Channel 4's specific requirements and remit.

- 4.25 There is also the potential for disruptive risks to the broadcast market overall, in the manner of the impact of internet distribution in for example, the music, print and publishing industries. However, the source, timing or impact of disruption is not certain – and may represent both opportunity and risk to broadcasters.
- 4.26 Such factors could all represent challenges and opportunities for C4C in delivering its services and fulfilling its remit. They may increase the risks to the Channel 4 operating model, and the cross-subsidy of Channel 4 and its licence obligations, and require C4C to make significant investments to adapt to circumstances.
- 4.27 In many respects, C4C has already been a pioneer in leading and adapting to change. It now has a proprietary on-demand service (4od) that operates across platforms, and internet distribution for its content via a number of third parties. It has launched initiatives to extend viewer engagement and relationship management through both linear programming and non-linear applications. And it has invested in and developed original, supplementary non-broadcast content and ‘second-screen’ applications in support of its main programme brands.
- 4.28 However, while the impact of further changes outlined above is less certain, they are arguably further outside of C4C’s traditional market and likely to require flexibility and further substantial investment to manage.
- 4.29 In this context, the main challenge for C4C in delivering Channel 4 and its licence obligations will remain its ability to sustain a cross-subsidy model to invest in content that both fulfils its distinctive remit and attracts and retains audiences to view it. In particular, this is likely to depend on:
- The resilience of the UK TV advertising market, and maintaining a strong trading position within it, while exploring new sources of revenue;
 - Strengthening audience share – primarily on the main channel, and also on the portfolio services, while remaining innovative;
 - Managing risks of higher costs of original programming or rights from programme suppliers, while taking risks in commissioning;
 - Operating in a global content and distribution market, while maintaining a strong focus on the UK and reflecting it to viewers;
 - Ensuring availability on more distribution platforms where demanded by viewers, while ensuring universal reach and availability;
 - A more detailed understanding and stronger relationship with viewers, while continuing to offer a range and diversity of programming to all UK viewers.
- 4.30 While some of these challenges are common across broadcasters, the particular challenge to C4C is that it must retain audiences in sufficient numbers to generate commercial revenues while simultaneously investing and engaging viewers in content which, by definition of its remit, is risk-taking, innovative and distinctive.
- 4.31 Ofcom should consider the renewal of the Channel 4 licence and, in particular, set appropriate licence conditions and its duration, in this context.

Consultation question 4: Do you agree with the assessment set out of the market changes and future challenges for C4C in sustaining delivery of Channel 4 and its licence conditions?

The sustainability of the licence and licence conditions

- 4.32 Ofcom must determine the length of a renewed licence, which may run “for such period as Ofcom may think fit”. This gives Ofcom the discretion to set the licence duration for any time period.
- 4.33 Our prime consideration is that the licence duration should support C4C in delivery of Channel 4 and its licence conditions. Channel 4 should continue to be provided through the licence period, and programming meeting the licence obligations should be delivered and adequately funded.
- 4.34 We have invited C4C to make a submission on its long term commercial model for sustaining Channel 4 and its specific remit and obligations.
- 4.35 In its submission, C4C states that it considers that the commercial model for the Channel 4 service and its licence obligations will be sustainable through a ten year licence period. C4C has presented a commercial strategy that it considers is realistic, adaptable to fluctuations and centred on continued delivery of its remit. Its central assumptions are:
- The TV advertising market will become part of a converged audio visual market, within which advertising products will evolve to be able to deliver both branding and targeted, personalised advertising. As a result of this data-driven innovation, the audio visual market will grow its share of the total advertising market overall;
 - The main Channel 4 service will benefit from increased content investment in the next few years to sustain current linear viewing share (with the C4C portfolio holding viewing share overall);
 - The cross-subsidy model for Channel 4 – under which loss-making programmes are offset by profitable ones, and there is a net financial contribution from the portfolio channels – will be sufficient to sustain its licence obligations;
 - C4C’s revenues and costs overall will be flat in real terms, leading C4C to break even over the long term. It expects to broadly maintain its existing cash reserves through the period.
- 4.36 We have considered the assumptions C4C has made about the market overall; Channel 4’s position in the TV advertising market; and assessed whether there are particular risks to its commercial model. We note:
- Although the range of media content choices is increasing, linear TV viewing has proved resilient in all age groups, and the main terrestrial broadcasters continue to attract relatively high levels of viewing on their channels and on-demand services compared to non-broadcasters.

- Despite the rapid growth of online advertising and other response marketing mechanisms, display media advertising budgets overall have also continued to grow slowly, indicating that the two are not direct substitutes.
 - TV advertising overall has (following a correction in the 2007-2009 recession) been resilient in recent years with an increased share of overall advertising revenues. Although it is difficult to predict reliably, the outlook for the TV advertising market and the major broadcasters appears stable.
 - C4C – both as an advertising sales house, and for its own channels – has retained a high share of TV advertising revenues, based on its comparatively high reach to the 16-34 demographic. Within the UK TV market, it appears well placed to continue to sustain revenues.
- 4.37 Overall this suggests resilient, low growth for the future. However, C4C's operating model is finely balanced and there are a number of risks which could lead to a decline in the commercial sustainability of Channel 4 and C4C's ability to invest in delivering the licence obligations. This could either be in the form a cyclical decline, such as a short-fall in revenue year-on-year, or a structural decline with a prolonged downward fall in advertising revenues.
- 4.38 C4C has submitted contingency planning in either event. This states that the overriding objective in either situation is maximising the delivery of its public service remit, and that the licence conditions would continue to be met.
- 4.39 C4C highlight that the downturn in the advertising market (by -12%) in 2007 to 2009 could be considered cyclical decline. C4C's response in this period was to reduce its programming budget by c.12% (from £625m to £550m), and it also reduced its volume of originations marginally as a result. Since this period, C4C has taken a strategic decision to use its cash reserves to increase investment in UK content to a level close to pre-2007.
- 4.40 In the event of a more structural decline, which would be a sustained decrease in revenues over a number of years, C4C considers it would need to reduce its overall cost base. In doing so, it would seek to protect the content budget by first reducing discretionary spend (such as marketing activity), reducing overheads (such as research) and driving efficiencies (such as re-phasing technology projects). It expects that some costs would be reduced across the market – for example, the market price of carriage on TV platforms, or for programming, might fall if there was a sustained decline in TV advertising that impacted demand across the broadcasters.
- 4.41 In the event of structural decline, C4C would seek to change content investment and the balance of the Channel 4 schedule toward more profitable content, while protecting key public service genres such as UK news and current affairs. However, as the main Channel 4 service represents the majority of the programming budget, reductions in investment from the main channel would be required, as well as from other services. C4C consider this might involve:
- A greater reliance on co-production, advertiser funding and 're-visits' (updating and repeating programmes);
 - Reductions in less profitable genres including drama and comedy, and high-cost areas such as entertainment;

- In terms of originations, focusing investment in peak to maximise reach and impact, with reduced originations in daytime and late-night programming. C4C considers that these reductions could have an impact on its delivery against the originations quota overall, and also on the out of London quota delivery, as a significant proportion of out-of-peak expenditure is from out of London producers.
- 4.42 We consider C4C's financial plan is credible, and its submission that the licence obligations can be maintained is realistic. We acknowledge that there is potential for significant change in this sector over the period of a renewed licence, particularly to commercial revenues and the cross-subsidy model of Channel 4. We note the risks that a structural decline in revenue might pose to meeting the remit and the licence quotas, but also the mitigating actions that C4C have proposed in this event.

Other considerations for the appropriate duration of the licence

- 4.43 In its submission C4C's "strongly preferred licence duration is ten years." C4C consider that a 10 year licence is necessary to achieve its creative and commercial ambitions in an era of connectivity and convergence. C4C consider that a 10 year licence period will provide continuity for audiences and production partners, and stability in which to evolve the business model and make strategic investments in the long term. By example, the longer term strategic investments are outlined as:
- Distribution co-ventures for DTT, principally Freeview and Youview;
 - Delivery on new platforms e.g. 4G mobile;
 - Content and independent production partner development;
 - Sport Rights e.g. Paralympics;
 - Second-screen applications and viewer relationships and data.
- 4.44 We consider that, while some of the long-term investments are not unique to C4C in that they are also considerations for other broadcasters, there are potentially greater uncertainties and demands for investment in the next licence period than in the previous one. Business certainty is an advantage in this respect.
- 4.45 A further relevant factor is that the Channel 3 and 5 licence holders would have the certainty of ten-year licence period in renewed licences.
- 4.46 Although C4C does not have the same degree of uncertainty or commercial risk as these licensees, in that under the legislation the Channel 4 licence can only be held by C4C and must be renewed before expiry, we consider that a relatively short licence period may adversely affect its long term business planning – both internally and with external suppliers – unnecessarily, which may impair delivery of its remit. There would also be the cost and distraction of repeating a licence renewal process on a frequent basis to consider.
- 4.47 A relatively long licence period may counter these concerns, but also introduce inflexibility in relation to particular licence conditions or in the PSB framework overall. This may risk building inflexibility into the licence to changes in market conditions, or

fetter the ability of C4C to respond to structural change or changing priorities in PSB delivery. It would also be in excess of the anticipated durations of the other commercial PSB licences. In the longer term there are likely to be challenges to the PSB broadcasters and framework overall which may demand greater flexibility or a different approach. Any changes to the framework would be for Parliament to consider.

- 4.48 On the basis that the licence conditions should be broadly maintained, and on C4C's submission that they are sustainable and will be delivered for its duration, we propose that the licence should be renewed for a ten year period.

Consultation question 5: Do you agree with our view that the Channel 4 licence should be renewed for a ten year period? If not, please set out an alternative duration and reasons for it?

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 10 October 2013**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/renewal-c4-licence/>, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses - particularly those with supporting charts, tables or other data - please email 4relicensing@ofcom.org.uk attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation.

Content Policy

Riverside House
2A Southwark Bridge Road
London SE1 9HA

- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Content Policy team on 020 79813000.

Confidentiality

- A1.8 We believe it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt. If you think your response should be kept confidential, can you please specify what part or whether

all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk . We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.15 If you would like to discuss these issues or Ofcom's consultation processes more generally you can alternatively contact Graham Howell, Secretary to the Corporation, who is Ofcom's consultation champion:

Graham Howell
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

Tel: 020 7981 3601

Email Graham.Howell@ofcom.org.uk

Annex 2

Ofcom's consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation.

Before the consultation

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. Ofcom's 'Consultation Champion' will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, we will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation response cover sheet

- A3.1 In the interests of transparency and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their coversheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.
- A3.4 We strongly prefer to receive responses via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the 'Consultations' section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only, so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing Name/contact details/job title

Whole response Organisation

Part of the response If there is no separate annex, which parts?

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

Annex 4

Consultation questions

- A4.1 We are seeking responses to the consultation on the following questions:
- 4.1.1 Consultation question 1: Do you agree with Ofcom's view that the current licence conditions remain largely appropriate to securing Channel 4's obligations?
 - 4.1.2 Consultation question 2: Do you consider it would be appropriate to increase the out of England quota on the Channel 4 service? If so, please set out the reasons for setting a particular level for the quota and for the rate of increase to this level?
 - 4.1.3 Consultation question 3: Do you agree with our proposal to leave the existing licence condition for schools programming unchanged? What role do you consider the main Channel 4 service should play in delivery of its education remit? Are the existing licence conditions appropriate to this?
 - 4.1.4 Consultation question 4: Do you agree with the assessment set out of the market changes and future challenges for C4C in sustaining delivery of Channel 4 and its licence conditions?
 - 4.1.5 Consultation question 5: Do you agree with our view that the Channel 4 licence should be renewed for a ten year period? If not, please set out an alternative duration and reasons for it?

Annex 5

Current legislation for licence conditions

A5.1 Section 263 of the Act requires Ofcom:

“to secure that the holder of every Broadcasting Act licence at all times holds his licence on the conditions which are for the time being included, under this Chapter and Chapter 5 of this Part, in the regulatory regime for the licensed service.”

A5.2 Section 265 of the Act requires that the regulatory regime for every licensed public service channel,³³ and for the public teletext service, includes a condition requiring the provider of the channel or service to fulfil the public service remit for that channel or service. The public service remit for Channel 4 is the provision of a broad range of high quality and diverse programming which, in particular:

- demonstrates innovation, experiment and creativity in the form and content of programmes;
- appeals to the tastes and interests of a culturally diverse society;
- makes a significant contribution to meeting the need for the licensed public service channels to include programmes of an educational nature and other programmes of educative value; and
- exhibits a distinctive character.

A5.3 The Act requires a number of licence conditions to be included in the licences of all licensed public service channels. These include:

- Section 266: a condition requiring the provider to prepare an annual Statement of Programme Policy, which must include proposals for securing that, in the following year:
 - (a) the public sector remit of the channel is fulfilled; and
 - (b) the other duties imposed on the channel are performed.
- Section 285: conditions for securing that the provider draws up, complies with and from time to time revises a code of practice setting out the principles that it will apply when agreeing terms for the commissioning of independent productions.
- Section 325: conditions for securing that the standards set in the Ofcom Broadcasting Code are observed in provision of the service.

A5.4 The Act also requires the inclusion of conditions in the licences of the public service channels concerning the proportion of particular types of productions and hours of particular genres of programming on the service. For example:

³³ Any Channel 3 service, Channel 4 and Channel 5.

- Section 277: conditions to secure that at least 25% of programming time is allocated to a range and diversity of independent productions.
- Section 278: conditions to secure that an appropriate proportion of time is allocated to original productions.
- Section 279: conditions to secure the broadcast of an appropriate proportion of high quality news and current affairs programmes.
- Sections 286 to 288: conditions related to regional programme-making.

A5.5 The Act also requires the inclusion of conditions in the Channel 4 licence that are unique to Channel 4:

- Section 295: a condition requiring C4C not to be involved in the making of programmes to be broadcast on Channel 4 without permission from Ofcom.
- Section 296: conditions to secure that a suitable proportion of programmes are schools programmes.

The current Channel 4 licence conditions

A5.6 Section 231 of the Act provided for the replacement of the Channel 4 licence with a digital replacement licence, which was to remain in force until the end of 2014.

A5.7 On 17 December 2004 Ofcom granted C4C the digital replacement licence, which came into force on 28 December 2004. This licence included a number of obligations that were present in the previous Channel 4 licence, although the detail and level of some of the quotas were varied. The table below illustrates the differences between the Channel 4 licence issued by the ITC in December 2002 and the current licence granted by Ofcom in December 2004. The text in **bold** highlights quotas or requirements that were not included in the previous licence.

A5.8 During the licence period, following consultation, Ofcom has made amendments to the level of three of the licence conditions: production outside London, original programming and schools programming. These are noted in the third column.

Summary of licence conditions and amendments to the Channel 4 licence

	Previous Licence (2002 – 2004)	Current Licence (2004 – Present)	Amendment in current licence period
Programming of EU Origin	Part2(10): 'The majority of the transmission time on the Channel 4 service (excluding the time reserved to news, sports events, games, advertising and teletext services) in each calendar year of the Licence Period shall be devoted to programming of European origin.'	Condition removed.	
Independent Productions	Part2(11): 'In each year not less than 25 per cent of the total amount of time allocated to the broadcasting of Qualifying Programmes in the Channel 4 Service is allocated to the broadcasting of a range and diversity of Independent Productions.'	Annex – Part 1(7): 'In each calendar year not less than 25 per cent of the total amount of time allocated to the broadcasting of Qualifying Programmes in the Channel 4 Service shall be allocated to the broadcasting of a range and diversity of independent productions.'	
Production outside London	Part2(13): 'The Corporation shall ensure that in 2002 and any subsequent calendar year at least 30 per cent of its programme budget is allocated to the production of programmes by companies based outside London.'	Annex – Part 1(6): '(a) The Corporation shall ensure that at least 30 per cent of the hours of programmes made in the UK for viewing on the Channel 4 Service shall be produced outside the M25. (b) The Corporation shall ensure that in any calendar year at least 30 per cent of its expenditure on programmes made in the UK for viewing on the Channel 4 Service shall be allocated to the production of programmes produced outside the M25 and must be referable to programme production at a range of production centres.'	The proportion of hours was increased from 30 per cent to 35 per cent in 2009. A further requirement for 3 per cent of hours and expenditure to be produced outside of England was also introduced in 2009.
Original programming	Part2(12): 'From 1999 at least 60 per cent by time of the programmes included in the licensed service in each calendar year shall be originally produced or commissioned for Channel 4. The requirement for peak-time is 70 per cent.' The Corporation shall ensure that from 1999 no more than 40 per cent of programmes transmitted in any calendar year have been previously shown in the same or substantially the same form on Channel 4. The maximum for peak-time is 20 per cent.'	Annex – Part 1(5): 'At least 60 per cent of the hours of programmes included in the Channel 4 DRL Channel 4 Service in each calendar year shall be originally produced or commissioned for the Channel 4 Service and at least 70 per cent of the hours of programmes in peak viewing time shall be originally produced or commissioned for the service.'	The total original hours was reduced from 60 per cent to 56 per cent in 2009.
News Programmes	Part2(8): 'In addition to any news service at breakfast time, not less than 4 hours per week of news programmes which are of high quality shall be included in the Channel 4 service.'	Annex - Part 1(2): '(a) News programmes shall be provided at intervals throughout the period for which the Channel 4 Service is provided, with at least one programme at lunchtimes each weekday and one in the early evening each weekday and a programme in the early evening at weekends on both Saturday and Sunday. (b) Not less than 208 hours in each calendar year of the Licensing Period of news programmes in peak viewing time shall be included in the Channel 4 Service. Such news programmes shall be of high quality and deal with both national and international matters.'	
Current Affairs Programmes	Part2(9): 'Not less than 4 hours per week of current affairs programmes which are of high quality shall be included in the Channel 4 Service.'	Annex - Part 1(3): 'The Corporation shall ensure that there are not less than 208 hours in each calendar year of the Licensing Period of current affairs programmes included in the Channel 4 Service which are of high quality and deal with both national and international matters, of which 80 hours shall be in peak viewing time.'	
School Programmes	Licence Condition 7: At least 330 hours per annum of schools programmes to be broadcast in term time or within normal school hours.	Annex – Part 1(4): 'Subject to Condition 10(1) the Corporation shall transmit at least 330 hours of schools programmes in each calendar year of the Licensing Period, excluding presentation material. These schools programmes will fulfil the needs of the curriculum and will be supported by a full range of appropriate material.'	The requirement was reduced from 330 hours to 30 minutes in 2010.
Educational Programmes	Part2(7): Not less than 7hrs per week, in addition to the schools programmes, shall be programmes of an educational nature.	Condition removed.	