

Question	Your response
<p><b>Question 1: Given changes to audience consumption patterns and wider market developments, is there any aspect of Ofcom's Guidance on commissioning of independent productions which Ofcom should update to ensure it remains fit-for-purpose?</b></p>	<p>Despite the noted growth of independent production in the nations and regions, 57% of independent commissioning spend remains in London. This tends to favour larger multinational production houses.</p> <p>This is reflected in Ofcom's own <a href="#">figures</a> that show that in 2020 just 6 super-indies (independent production companies with revenues exceeding £70 million) accounted for 38% of all revenue in the independent sector.</p> <p>However, this seriously underestimates the scale of the problem. Many of the large (revenue £25-70 million), medium (revenue £5-25 million) and small (revenue less than £5 million) independent production companies are in fact owned by large super-indie groups or holding companies. For example Endemol-Shine owns Tiger Aspect, Kudos and Shine TV, yet these large/medium sized companies are counted individually rather than as members of their super-indie parent. The figures therefore seriously underestimate the concentration of revenue and power within the independent sector.</p> <p>All independent production companies that come under an umbrella of a large super-indie group or holding company benefit from a number of competitive advantages. For example "super-indies are in a much better position in sales negotiations given they are able to deficit-fund production, taking greater risks and benefiting from content distribution opportunities" (<a href="#">Mediatique 2020, page 24</a>).</p> <p>We recommend therefore that Ofcom takes steps to record the actual economic clout of independent companies in the sector. It is only by doing this that Ofcom can</p>

measure the true state of the market and better understand how the BBC can support economic growth in the regions.

Given concentration in the market, it is essential that external commissioning is re-balanced, with the revenue currently going to large multinationals cut back in favour of smaller, independent producers. An increasing proportion of funding should be earmarked not only for smaller producers (to facilitate local and regional economic growth), but also specifically to support the development of alternative models of ownership in the media industry, with quotas introduced for commissioning to media mutuals and cooperatives that often better serve PSM values.

Given changes to audience consumption, an increasing proportion of the BBC's regional programme commissioning, meanwhile, should also be allocated to audience-led commissioning. The BBC has already developed national audience panels, and has piloted 'diverse audience panels' to improve programming through public engagement and collaboration. These initiatives should be built upon so as to allow licence fee payers direct influence over local commissioning. A proportion of regional commissioning decisions should be organised via a combination of diverse audience panels, selected by lot and paid modestly for their time, and via regional voting facilitated by the BBC's digital platforms. All audience-commissioning processes and audience-commissioned programmes should be sufficiently publicised on the BBC's digital platforms. Programmes would also have to satisfy the BBC's policies on diversity and inclusion, and would be subject to quotas stipulating a minimum proportion of news and current affairs programming.

**Question 2: Is there any change to the independent production quota which Ofcom should recommend to Government as part of its 'Small Screen Big Debate' programme?**

The independent production quota mandates that at least 25% of BBC TV programming must come from private media companies (minus some exempt areas), whilst under the recent Royal Charter, all BBC programming, with the exception of news and news-related current affairs, is now being opened up to commercial competition. The Charter also created a new commercial subsidiary, BBC Studios, incorporating the majority of BBC TV programme making, that competes with private companies for BBC commissions and is able to provide content to other media platforms. This commercialisation weakens the BBC's production capacity, undermines universal access to BBC produced programmes and increases precarity in the broader industry.

This marketisation should be reversed. In-house production guarantees should be restored to ensure the BBC remains a public source of independent programme making and a provider of training and expertise. BBC Studios, therefore, should be brought back 'in-house'.

Strict stipulations should be introduced into commissioning from Private Media companies to ensure adequate diversity within workforces, more equal pay, and better working conditions.

In 2018 BECTU's Black Members' Sub Committee analysed that year's [BAFTA](#) Craft awards ceremony. The awards represent the pinnacle of UK television production, and yet of the 99 crew members recognised at the awards, 98 were white. It is a shocking fact that television crews in the UK are overwhelmingly white and there has been little attempt to address this. Broadcasters do not monitor the diversity of the people who make their programmes if the production is outsourced to an independent production company. Independent production companies rely on 'freelance' casual work-

ers often recruited through informal networks, and this way of hiring has the effect of excluding people from lower socio-economic backgrounds.

Ofcom published an incomplete and unsatisfactory set of figures for freelancers working in television in 2017 and 2019. However the [2019 figures](#) showed that just 2% of freelancers were Black and Minority Ethnic (BAME), and this tallies with other research, including that from Dr Dave O'Brien at Edinburgh University, which – drawing on surveys from the Office for National Statistics – show the number of BAME workers in film, television and radio to be 4.2%.

The last survey from Creative Skillset showed that the number of BAME workers in television fell by 31% between 2005 and 2012.

To address the lack of diversity in the independent production sector and to fulfil the values of public service media to be open, inclusive and representative requires equality data monitoring not just within the main broadcasting corporation but also within the independent production houses they commission. Ofcom should systematically collect this data from across the PSM producing sector and not just from the BBC and change the independent production quota to ensure not just that the content produced reflects PSM values but that the workforce producing the content does too.

The BBC has acknowledged the need to address the question of diversity in both its programming and its workforce. The Diversity & Inclusion Strategy is a welcome step. All the major Broadcasters have committed themselves to Project Diamond, an industry-wide initiative run by the Creative Diversity Network to monitor diversity across the sector. Project Diamond has the potential to make a real difference because it seeks to capture equality monitoring data from the entire workforce; staff and freelance.

However the Creative Diversity Network refuses to publish the data they capture at programme, production or company level. The resulting lack of detail makes it impossible for commissioning broadcasters to scrutinise the data effectively. This problem has been raised by the Federation of Entertainment Unions with BECTU currently asking their members not to participate in the scheme until Project Diamond's publishing strategy is changed. The resultant low participation rate in Project Diamond makes a mockery of any claim by the sector that it effectively undertakes equality monitoring.

Ensuring adequate diversity in television production requires complete transparency about the makeup of PSM, and this must therefore include the publishing of rigorously collected equality monitoring data at the programme and production level for all producers of PSM content, whether in-house or external. Because the Creative Diversity Network currently refuses to publish Project Diamond data at this level of granularity, Ofcom must step in and ensure the publishing strategy is changed. Failure to do so limits the ability of broadcasters to implement a commissioning strategy from Private Media companies that would ensure a greater diversity in the makeup of workforce.

The data collected and published should be extended to include social class, as well as age, gender, sexuality, ethnicity, religion, disabilities, and other protected characteristics.

Delivering on diversity will also mean addressing the casualisation of the workforce for public service media content over the last three decades. Precarious working conditions narrow the range of people able to produce programmes, disproportionately impacting on those from lower income families, women, minority groups, and those with disabilities. Ofcom must not only

	<p>ensure the needs of such groups are adequately met but must also re-establish PSM as a provider of expertise for industry professionals, identifying and targeting under-represented and marginalised groups in its training.</p>
<p><b>Question 3: Do you have any recommendations for potential changes to the definitions of 'qualifying programmes' or 'independent production' which Ofcom should recommend to Government as part of its 'Small Screen Big Debate' programme?</b></p>	<p>'Qualifying programmes' derived from independent production should fulfil PSB purposes and be compatible with PSB objectives. Independence is currently determined as "(i) producers who are not employees of a broadcaster; (ii) do not have a shareholding greater than 25% in a broadcaster; and (iii) which are not a body corporate in which any one broadcaster has a shareholding greater than 25% or any two or more broadcasters have an aggregate shareholding greater than 50% (where "broadcaster" essentially means a broadcaster intending to broadcast to the UK).</p> <p>In order to increase competitiveness and diversify the range of independent production companies who can benefit from PSB commissioning, the percentage shareholding in a broadcaster should be reduced by half (i.e. producers who do not have a shareholding greater than 12.5% in a broadcaster; and are not a body corporate in which any one broadcaster has a shareholding greater than 12.5% or any two or more broadcasters have an aggregate shareholding greater than 25%).</p> <p>The codes of practice that PSB providers operate by when agreeing terms for the commissioning of independent productions should include the necessity for diversity in production crews as well as meeting requirements of PSB content (as noted above)</p>