

**UK Film Council Response to
Ofcom's Second Public Service
Broadcasting Review: Phase One –
The Digital Opportunity**

June 2008

Executive Summary

The UK Film Council is the Government-backed lead agency for film in the UK. Our goal is to help make the UK a global hub for film in the digital age, with the world's most imaginative, diverse and vibrant film culture, underpinned by a flourishing, competitive film industry.

The UK Film Council welcomes the opportunity to comment on Phase One of Ofcom's Second Public Service Broadcasting (PSB) Review.

The British Film Institute, which delivers cultural and educational objectives for the UK Film Council, has made its own submission to this Review. The two submissions share common principles and are intended to be complementary.

The UK Film Council believes that UK public service broadcasters have historically played a very important role in investing in and acquiring UK films and making them available to broad audiences. We believe that their role in respect of film will remain crucial in the digital age, especially if investment in other forms of UK-originated drama declines.

Culturally British films shown on public service broadcasting channels have significant reach – since the key public service broadcasters provide a universally available service – and significant impact. We want this to continue to be the case in the future to the benefit of both UK filmmakers and UK audiences.

We believe that plurality should be a cornerstone of provision of public service content in a digital age. Such plurality is vital to permit a diversity of creative voices to emerge and acts as an important competitive spur. Plurality in the commissioning and acquisition of theatrical film is as important as plurality in relation to UK-originated drama.

In the digital age, the UK Film Council and its partners – including the National and Regional Screen Agencies and the British Film Institute - have a growing role to play in meeting public purposes which have traditionally been met by public service broadcasters, for example in relation to expressing and reflecting the cultural identity of the UK and in representing diversity and alternative viewpoints,

We believe that a mixed economy in which plurality is a cornerstone of delivery is crucial. At this stage, we believe that Model 3 'BBC/Channel 4 plus limited competitive funding' would be most likely to deliver the required public purposes. This would also allow an extension of Channel 4's remit – to include, for instance, FilmFour – while also allowing for innovation in the delivery of public service content through what Ofcom calls "long term but transferable funding agreements."

Responses to Questions:

Section 3. How well are the public service broadcasters delivering public purposes?

i) Do you agree with Ofcom's assessment that television continues to have an essential role in delivering the purposes of public service broadcasting?

Yes, the UK Film Council strongly believes that television does continue to have such a role. Despite the development of a significant body of public service content online, as demonstrated by Ofcom's own research, it is clear that such content does not have anything like the reach and impact that is delivered by television.¹ Moreover, while almost all UK households own a television set, in 2007 some 39% of UK homes did not have an internet connection.²

It is also clear that television remains an immensely popular medium which, despite the rise of online media, continues to attract viewers in very substantial numbers. Ofcom notes that on average in the UK, viewers watch 3 hours 38 minutes per person per day.³ As Ofcom notes, although viewing of public service channels has fallen by 17% over the last five years, they still command two-thirds of all viewing hours.⁴

As an example, through the medium of television British feature films can reach very large audiences; *The Queen* attracted an audience of 8.7 million people when it was first shown on ITV1 in 2007.⁵ *Calendar Girls* and *Mrs Henderson Presents* attracted audiences of 8 million and 7 million respectively when they were shown on BBC1 in 2006.⁶ In each case, the number of people who saw these films on television exceeded by a multiple of several times the number of people who saw the films in the cinema.

In this regard, we are also puzzled by the analysis in the synopsis of Oliver and Ohlbaum's modelling of future scenarios for public service content at Annex 7 in which UK film is said to attract small audiences and to be marginally unprofitable. The detailed evidence for this categorisation of film is not provided. Thus it remains an assertion unsupported by a detailed analysis.⁷ Notwithstanding this, it seems to us that reach and enduring impact upon audiences is at least as important as the profitability of a given genre for public service broadcasters (as opposed to commercial investors).

ii) Do you agree that UK-originated output is fundamental to the delivery of public service broadcasting purposes?

¹ MTM Review of Availability of Public Service Content Online, Annex 8 to current consultation, at: http://www.ofcom.org.uk/consult/condocs/psb2_1/annex8.pdf

² <http://www.statistics.gov.uk/CCI/nugget.asp?ID=8>

³ Ofcom's Second Public Service Broadcasting Review, Phase One: The Digital Opportunity (hereafter "condoc"), para. 3.55 at http://www.ofcom.org.uk/consult/condocs/psb2_1/consultation.pdf

⁴ Ibid., para. 3.56

⁵ UK Film Council Research and Statistical Unit Statistical Yearbook 2007/8(forthcoming) based on data supplied by BARB and Attentional.

⁶ Table 12.3, UK Film Council Research and Statistical Yearbook 2008 http://www.ukfilmcouncil.org.uk/media/pdf/5/8/Stats_Year_book.pdf

⁷ Annex 7: A synopsis of Oliver & Ohlbaum's economic modelling of future scenarios for public service content, Figure 12, http://www.ofcom.org.uk/consult/condocs/psb2_1/annex7.pdf

Yes. The UK Film Council strongly believes that UK-originated content is fundamental to such purposes.

We note that “Ofcom’s deliberative study showed that participants, regardless of age, thought that it was very important for UK content to reflect life in the UK today. In many cases, people felt that they identified more readily with UK programmes than with programmes from overseas.”⁸

Similarly, research for the UK Film Council and Pinewood Shepperton plc has demonstrated that people place an additional value on UK films. It estimates, for example, that the presence of UK films boosts total box office revenues by over £50 million a year.⁹ This is one way of measuring the cultural value of UK film as shown in cinema.

It is because of the additional value of such UK-originated content that the Government intervenes to support both public service broadcasting and UK film content. The creation of new UK films, for example, is supported through tax relief as well as funding from the National Lottery via the UK Film Council, the national film bodies in Scotland, Wales and Northern Ireland and the Regional Screen Agencies in England.¹⁰ The UK Film Council also uses a mix of lottery funding and grant-in-aid to support a range of other film and screen-related activities such as skills training, archiving and distribution and exhibition in relation to both British films and specialised films.

Clause 264 of the Communications Act confers upon Ofcom statutory duties with regard to its review of public service broadcasting with respect to the ways in which films on television reflect, support and stimulate the diversity of cultural activity in the UK.¹¹

Because of the way in which the Government explicitly supports UK film and because of this statutory duty, it is therefore inexplicable to see that among those categories which Ofcom explicitly says are not PSB are “Films.”¹²

It seems that Ofcom has not distinguished between films that might represent public service content (culturally British and specialised films) and films that do not (non-British mainstream films produced by the Hollywood studios).¹³

This has very significant consequences. It means, for example, that Ofcom fails to take account of the way in which UK-originated film manifestly does contribute to public service broadcasting purposes, including informing ourselves, stimulating

⁸ Condoc, 3.30

⁹ The Economic Impact of the UK Film Industry, a report by Oxford Economics for the UK Film Council and Pinewood Shepperton, plc, Section 8.2, <http://www.ukfilmcouncil.org.uk/media/pdf/5/8/FilmCouncilreport190707.pdf>

¹⁰ The relevant National bodies are Scottish Screen, the Northern Ireland Film Commission and the Film Agency for Wales.

¹¹ Clause 264, subsection 6 (b), http://www.opsi.gov.uk/acts/acts2003/ukpga_20030021_en_25#pt3-ch4-pb2-11g264

¹² Ofcom Slide Condoc, Annex 6, The audience’s view on the future of Public Service Broadcasting Annex 2 - Discussion guide for the reconvened workshop, p.3 http://www.ofcom.org.uk/consult/condocs/psb2_1/annex5.pdf This assertion is then repeated in the handout provided by IPSOS Mori at p.18 of the same annex.

¹³ For details of the cultural test which films now have to pass to qualify as British see: <http://www.ukfilmcouncil.org.uk/culturaltest>

knowledge and learning, and expressing and reflecting the UK's cultural identity and diversity.

We recognise, along with Ofcom, that one of the difficulties is that the statute “refers only to [sic] that the PSB services “taken together” should include a suitable quantity and range of programming [in Tier 3]” such as film.¹⁴ We think that greater clarity is needed in the statute around the broadcasters' duties in respect of film, arts programming and other genres mentioned in Clause 264.

We would observe that culturally British films, for example, can have a very powerful and distinctive impact on audiences, not least because they allow individual voices to express particularly striking points of view about the world.

It is said of the groups surveyed by IPSOS Mori on behalf of Ofcom that:

“[t]here was also much discussion around the subject of UK films. Many participants recognised the burgeoning and developing UK film industry (largely thought to be a result of funding and backing from Channel 4 and the BBC). They believed that UK Films represent and reflect life in the UK, both today and in the past, and also serve to educate viewers on topical issues.”

A quote is provided from one participant in the survey who said that:

“Films for example aren't thought of as being PSB but some of them very much are. Like films by Ken Loach could be very much part of PSB.”¹⁵

The UK Film Council believes that Ofcom's own audience research supports the view that film is very much part of public service broadcasting content, and that among the reasons for this is that culturally British films support original and distinctive viewpoints which have measurable impact with audiences.

UK-originated, long-form drama has often played a similar role and there has also been a significant cross-fertilisation as regards onscreen and off-screen talent between such drama and films. We believe that popular and impactful UK-originated films such as *Billy Elliot*, *Bloody Sunday* and *The Queen* (all of which received support from broadcasters) will continue to be highly valued by viewers, especially if there is a general downturn in the amount of high-quality TV drama that is available across the public service channels. Therefore, a way needs to be found to ensure that the ecology of public service broadcasting continues to be supportive of UK film through direct investment.

The UK Film Council also believes that in a digital age the intellectual property value of successful films needs to be maximised to the benefit of the SMEs which create those films and which drive creativity and innovation rather than being warehoused by broadcasters simply to ensure that other platforms cannot exploit them.

We believe that there needs to be a more effective focus on film by Ofcom. . While Ofcom has proved its strengths as an economic and competition regulator, it has shown less grasp of the issues involved around programming of a cultural and artistic nature as shown by its lack of acknowledgement of the role of film in relation to PSB. This requires further analysis and the UK Film Council will be talking to other cultural organisations about ways in which this analysis can best be developed.

¹⁴ Condoc, 6.56.

¹⁵ http://www.ofcom.org.uk/consult/condocs/psb2_1/annex5.pdf, p.66.

We are puzzled by the assertion in the foreword to the Review that “outside film and sports coverage, the overall level of market investment in original UK content has reached a plateau.”

In real terms, investment by the two principal public service broadcasters in UK originated film is in decline. The investment by BBC Films has risen slightly from £10m p.a. to £12m p.a. but this still represents a real term decline over the last decade. Channel 4’s recent commitment to hold its current commitment to spend on film at £10m p.a. is welcome.¹⁶ But this also represents an ongoing decline, with spend in real terms down 65% as compared with 1999 when Channel 4 was spending £22.6m per year in investing in films – prior to a significant increase in its film spend with the expansion of FilmFour from which it then pulled back in 2002.¹⁷

Although it is difficult to decipher the film element from the relevant bar chart (as film spend is so small in relative terms) it appears that the synopsis of Oliver and Ohlbaum’s analysis at Annex 7, figure 13, suggests that spend on UK film along with other genres, will decline in real terms under all its scenarios.¹⁸

Section 4. The changing market environment

i) Do you agree with Ofcom’s conclusions about the way that other digital channels and interactive media contribute towards the public purposes?

Yes, we believe that digital channels and interactive media have an important role to play in contributing toward public purposes. They represent the world beyond but complementary to television.

The UK Film Council and its partners, including the National and Regional Screen Agencies and the British Film Institute are already supporting interventions in the digital and interactive space – both as regards content creation and the distribution of content across digital platforms.

We and our partners have a growing role to play in meeting public purposes, in particular around reflecting UK cultural identity and representing diversity and alternative viewpoints, in this digital space. This is particularly true at a time when there appears to be a growing deficit in the provision of public service material – especially in children’s and regional non-news programming but also in other areas such as high-quality UK-originated drama – from the public service broadcasters.

Likewise, other non-departmental bodies and cultural organisations which operate under the aegis of the Department for Culture, Media and Sport have a growing role to play in delivering such purposes. We are planning to engage in a dialogue with such bodies and organisations to consider ways in which, collectively, we can best

¹⁶ Quoted in Condoc at Figure 49.

¹⁷ Investment quoted p.7 in <http://www.culture.gov.uk/creative/pdf/Film.pdf>. Percentage decline based on UK Film Council analysis of spend using Treasury GDP deflator at http://www.hm-treasury.gov.uk/economic_data_and_tools/gdp_deflators/data_gdp_fig.cfm

¹⁸ Annex 7: A synopsis of Oliver & Ohlbaum’s economic modelling of future scenarios for public service content, Figure 13, http://www.ofcom.org.uk/consult/condocs/psb2_1/annex7.pdf

help to deliver these public purposes going forward, as some of the traditional public service broadcasters reduce or eliminate altogether their commitment to delivering these public purposes. We look forward to elaborating our arguments in this sphere in the context of Phase Two of Ofcom's current PSB Review.

It is our contention that services already operated by the BFI such as Screenonline and the archive material it has made available via YouTube make an important contribution toward the delivery of public purposes. This needs to be much more strongly acknowledged by Ofcom in the next phase of its Review. It would appear that there is a significant deficit in the availability of archive content – for example of the several million hours of material held in public archives in the UK, only a tiny fraction is available online.

However, we would note that the main consultation document makes only a very brief reference to the services provided by the BFI for moving image archive content and that research commissioned from MTM (annexes 8 and 9) make no reference at all to these services.

The Lost World of Mitchell and Kenyon shown on BBC2 in 2005 and jointly produced by the BBC and the BFI attracted an average of 4.3million viewers per episode suggesting a potentially strong demand for culturally specific archive material.

We would also echo the supportive comments about the Creative Archive Licence Group which are made in the BFI submission.

Section 5. Prospects for the future delivery of public service content

- i) Do you agree with Ofcom's assessment of the implications of different economic scenarios for the UK TV market for the future prospects for delivery of the public purposes?**

In broad terms, yes.

- ii) Do you agree with Ofcom's analysis of the costs and benefits of PSB status?**

In broad terms, yes.

Section 6. Meeting audience needs in a digital age

- i) Do you agree with Ofcom's vision for public service content?**

In a recent speech Sir Michael Lyons, chair of the BBC Trust said that:

"There's always a danger of debates about PSB turning into debates about institutional arrangements. But let's not forget that what audiences are interested in is what they see on their TV screens and hear on their radios and access online."¹⁹

¹⁹ The BBC, the licence fee and the future of UK PSB,
http://www.bbc.co.uk/bbctrust/news/speeches/ml_rsa.html

We agree with Sir Michael that the vision for content in a digital age should be focussed on the needs of audiences and not merely the maintenance of institutional methods of delivery.

We therefore support Ofcom's approach based on audience need. The principles for public service content set out at 6.4 seem to us to be an excellent departure point for specifying the contribution that public content should make in a digital age. With regard to the genres identified at 6.5 we would add UK film for the reasons specified in answer to Section 3 (ii) above.

ii) How important are plurality and competition for quality in delivering the purposes of public service broadcasting, and in what areas?

We believe that plurality should be a cornerstone of provision of public service content in a digital age. Such plurality is vital to permit a diversity of creative voices to emerge and acts as an important competitive spur. Plurality in the commissioning and acquisition of theatrical film is as important as plurality in relation to UK-originated drama.

ii) In maximising reach and impact of public service content in the future, what roles can different platforms and services play?

We believe that all possible platforms should be harnessed to ensure that delivery is as effective as possible and that it is genuinely UK-wide.

In particular, we note the issues raised around "search" in Section 5 (paras 5.59 ff).

It is stated that:

"Ofcom's research suggests that demand for public service content remains very strong, and thus it should continue to be in the interests of search providers to ensure that their results give due prominence, where appropriate, to public service content. However, search results are generated algorithmically⁸, and are therefore continually prone to manipulation using a range of ever-changing techniques, known collectively as search engine optimisation. An 'arms race' is likely to continue between those search engine providers keen to meet the full range of needs of their users, and those who place the greatest commercial value on the traffic generated by search. Typically, the latter group does not include the providers of public service content.

This is likely to continue to have an adverse effect on the reach and impact of interactive public service content, despite demand from users. One question is therefore whether intervention might be possible to enhance the reach and impact of existing public service content, and ensure it is easy for audiences to find and access."²⁰

We note also that Figure 33 after paragraph 4.42 it is stated that online public service content in the form of arts, culture and heritage material is limited in availability and is difficult to discover.

We support Ofcom's analysis around search issues. We believe that it would be interesting for the Government and Ofcom to explore with Google and other search providers the possibility of interventions which encourage the creation of

²⁰ Condoc, paras 5.60-5.62.

mechanisms within search algorithms which enable public service content to be found and accessed more easily.

iii) Do you agree that the existing model for delivering public service broadcasting will not be sufficient to meet changing needs in future?

We accept that there will be pressures on all the principal public service broadcasters and that therefore the existing model will need to be subject to considered and judicious revision.

Section 7. Future models for funding and providing public service content

i) What are your views of the high-level options for funding public service broadcasting in future?

We believe that the licence fee remains essential as a means of funding the BBC, and possibly other sources of content which deliver public purposes.

ii) Are the proposed tests of effectiveness for future models for public service broadcasting the right ones?

In broad terms, yes. We look forward to seeing the more detailed analysis in Phase Two of the Review so that we can comment further.

iii) Of the four possible models for long term delivery of public service content, which, if any, do you consider the most appropriate and why? Are there any alternative models, or combination of models that could be more appropriate, and why?

We believe that a mixed economy in which plurality is a cornerstone of delivery is crucial. At this stage, we believe that Model 3 ‘BBC/Channel 4 plus limited competitive funding’ would be most likely to deliver the required public purposes. This would as the consultation document puts it “retain the benefits of competition between well-funded, publicly owned institutions with scale.”²¹ But it would also allow an extension of Channel 4’s remit (see response to Question 8 below) and allow for innovation in the delivery of public service content through the proposed “long term but transferable funding agreements.”²²

We believe that such agreements might be used to enable organisations with a public remit, such as the UK Film Council, Arts Council England and other bodies to facilitate the delivery of public service content which delivers public purposes which have historically been delivered by public service broadcasters.

As the commercial PSBs pull back from delivering on these purposes, there are strong arguments for encouraging publicly-owned organisations to take on the role of delivering these purposes in a digital age. We have the assets in the area of arts and culture and we have the infrastructure to achieve significant reach and impact and we are already starting to take this role. In the digital age there is a natural convergence of public service broadcasting policies and public purposes as delivered by

²¹ Condoc, para. 7.48.

²² Condoc, para. 7.51

organisations such as ourselves. We will be developing these arguments in partnership with Arts Council England and others in the coming months and will feed them into the next stage of Ofcom's Review, and also to the Government's Convergence Think Tank.

Section 8. Options for the commercial PSBs

i) What do you think is the appropriate public service role for Channel 4 in the short, medium and long term? What do you think of Channel 4's proposed vision?

We set out our views in detail on the future of Channel 4 in our response to the LEK report commissioned by Channel 4 last year.²³ At that time, we said that it is "impossible to know whether the case for some form of immediate intervention to support Channel 4 has been proven. That is why the UK Film Council cannot accede to Channel 4's request to support their call for immediate intervention by Ofcom at this time."²⁴

We added however that:

"Even so, it seems highly probable to us that it is only a matter of time before Channel 4 faces unsustainable downward pressures on its revenues. Therefore we believe that at some point a form of state intervention and/or some new business model will be required to maintain Channel 4's contribution to public service broadcasting."²⁵

It is our view that Channel 4 should be encouraged to explore all options including a possible partnership with the BBC. This would embrace both the current discussions which are reportedly underway regarding the Channel taking a stake in BBC Worldwide.²⁶ The consultation document notes that "BBC Worldwide profits are expected to increase."²⁷

We believe that subsidising Channel 4 through a portion of the licence fee should be a last resort since a direct grant would be likely to create significant difficulties as regards state aid as well as opening the possibility of direct political influence over the channel.

If Channel 4 is to be permitted to benefit from additional public support however we believe that its public service remit should be extended to cover its digital channels, and specifically FilmFour. We recognise that at present as the consultation document states "there is no incentive for existing PSBs to deliver public service content beyond the designated public service TV channels within the current statutory framework."²⁸

²³ www.ukfilmcouncil.org.uk/media/word/p/r/Ofcom_Review_of_C4final_1.doc

²⁴ Ibid. para, 1.6

²⁵ Ibid, para 1.7

²⁶ <http://www.guardian.co.uk/media/2008/jun/10/channel4.bbc>

²⁷ Condoc, para.7.8

²⁸ Ibid., para. 6.55

iii) Which of the options set out for the commercial PSBs do you favour?

We do not yet have a view on this.

Section 9. Scenarios for the UK's nations, regions and localities

i) To what extent do you agree with Ofcom's assessment of the likely future long term issues as they apply to the nations, regions and localities of the UK?

We believe that it is critical that public service provision is appropriate to the needs of viewers across the UK, and not just in a given place or a single nation. We note with interest the deficits identified in the BBC Trust report published on the provision of news in the Nations and Regions subsequent to the publication of Ofcom's present consultation.²⁹

We believe that such deficits may also apply in other areas such as drama and documentary and that there is potentially a role for the National and Regional Screen Agencies to help fill this gap.

We welcome Channel 4's 4IP initiative with which some of the National and Regional Screen Agencies are already partnered, and which aims to use digital media to deliver public service content and to provide creative hubs

ii) Which model(s) do you think will be most appropriate in each of the nations and in the English regions in the long term, and why?

As stated above, we believe that National and/or Regional Screen Agencies have a role to play. In this regard, we strongly welcome the suggestion at paragraphs 1.52 and 9.99 that the Screen Agencies could have a role to play in future delivery.

iii) What are your views on short/medium-term issues referred to, including the out of-London network production quotas?

We do not have a view on this.

iv) What are your initial views on the preliminary options set out relating to ITV plc's regional news proposal? (Please note that Ofcom will put forward firm options on these issues, and consult also on ITV plc's regional news proposal, in phase 2 of this Review.)

We do not have a view on this.

²⁹ <http://www.bbc.co.uk/bbctrust/research/impartiality/nations.html>

Section 10. Prospects for children’s programming

i) Do you agree with our assessment of the possible short term options available relating to children’s programming; are there any other options available?

We have set out in our views on this issue in our submission to Ofcom’s consultation on this subject.³⁰ As noted in Annex 10 to the current consultation which summarises responses to the previous consultation, although we recognise that there may be a deficit in the supply of children’s content, including films “a production tax credit would do nothing to address the need for a broadcast outlet for children’s programmes once they had been made.”³¹

We would point out a factual inaccuracy in relation to the tax breaks for film in Annex 10. It is stated that “the section 48/42 scheme in the UK was launched in 1998 and was designed to incentivise low-budget UK films.”³²

In fact, the Section 42 scheme was originally introduced in Finance (No 2) Act 1992, and was available to all qualifying British films and not just low budget ones. Section 48 was introduced in Finance (No 2) Act 1997 and was available for qualifying films with total expenditure of £15 million or less.

Section 11. Timetable for implementing a new model

i) Do you agree that new legislation will need to be in place by 2011 in order to ensure continued delivery of the public purposes in the medium and long term?

Yes. It seems to us important that such legislation should be in place ahead of the expiration of the current agreement on the level of the licence fee so that a view can emerge as to the appropriate level of funding for public service content in the round (and not just the BBC).

³⁰ <http://www1.bsc.org.uk/consult/condocs/kidstv/responses/ukfc.pdf>

³¹ Paragraph 2.52, <http://www.ofcom.org.uk/consult/condocs/kidstv/statement/statement.pdf>

³² Annex 10 The Future of Children’s Television Programming: Future delivery of public service content for children. 10.35, second bullet, <http://www.ofcom.org.uk/consult/condocs/kidstv/statement/statement.pdf>