



**BBC response to Ofcom *Review of Regional TV  
Production and Programming Guidance***

**4 June 2018**

## Summary

The BBC welcomes this opportunity to respond to Ofcom's call for evidence. We are the leading investor in British content, spending more than £1 billion in the creative economy last year. Our nations and regions activity is the backbone of our content provision to audiences, enabling us to provide a unique range and breadth of output and to spread the economic and cultural benefits of people's investment in the BBC back to the whole of the UK.

Ofcom's review is both timely and important. Our response to this call for evidence covers the BBC's perspective both as the biggest commissioner of TV content in the UK's nations and regions and as a major producer in the UK's nations and regions via BBC Studios, and is framed by:

- Our experiences of working with and to the guidance during a period of rapid expansion in our production outside of London.
- Our experience of developing and maintaining sustainable ecologies out of London.
- The broader market and regulatory context.
- Our future strategy for geographic network supply.

In summary we believe the Ofcom out of London guidance and definitions remain broadly fit for purpose. The core criteria work in practice and have served the sector well over the past ten years or so - enabling a huge expansion in Out of London production – and we believe will facilitate the future ambitions of the sector in the nations and regions. Ofcom could make some incremental improvements to strengthen the understanding and delivery of the whole sector focusing on clarity, transparency, and ensuring consistency across broadcasters and producers. But any changes require a full understanding of the consequences, intended and otherwise. We are arguing for a small change to the guidance to allow all productions which qualify as out of London and are entirely based in the English regions to be assignable to a single macro region for quota purposes.

## The BBC's performance

The BBC's nations and regions production activity is one of the ways we support and develop the creative economies of the UK's nations and regions. Our responsibilities in this regard derive from our public purposes, one of which states that we should "invest in the creative economies of each of the nations and contribute to their development". To this end we support Ofcom's position stated in the call for evidence that "the regional production requirements are principally industrial policy interventions that aim to support and strengthen the TV production sector and creative economies of the UK's nations and regions."

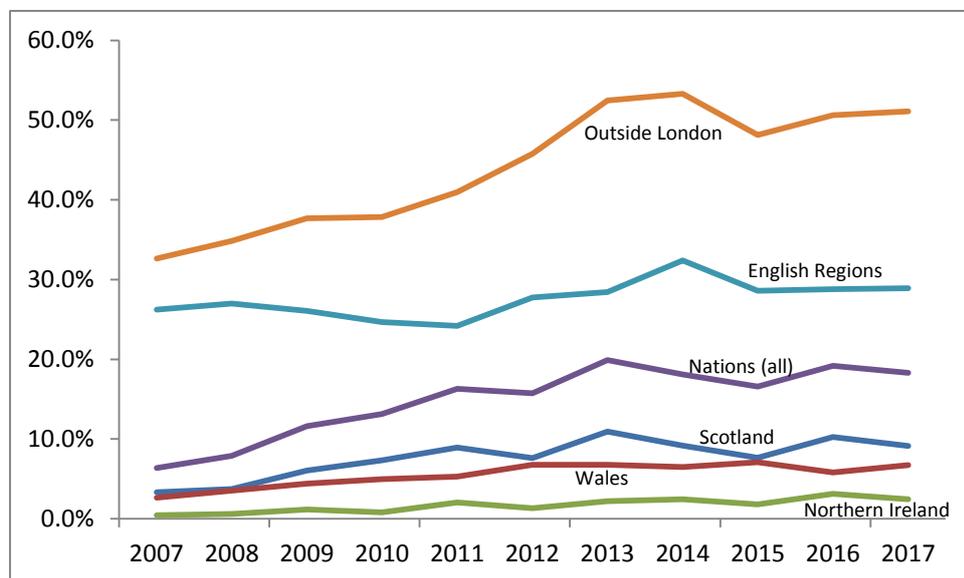
Over the last Charter period our network supply strategy shifted the balance of our economic footprint - taking us from around 30% of network production spend outside of London to more than 50% in ten years, with the percentage of hours rising from around 30% to more than 60%. We set ourselves stretching voluntary targets for Scotland, Northern Ireland and Wales based on the proportion of the population that live there. The BBC now:

- Makes more programmes outside London than any other broadcaster.
- Accounts for more than 80% of network TV spend in the devolved nations.

- Invests around half a million pounds a year supporting the business and ideas development of small Indies – the vast majority out of London.
- Actively supports relevant training and skills development initiatives.
- Allocates £2m a year to support additional effort to support nation and regions portrayal and has writers rooms based in all three devolved nations and the North of England.

This performance has delivered significant economic benefits across the UK. Over this period we have learned that better portrayal and representation does not follow production activity, is a much more complex ambition to realise and, in our view, conflating the two is unhelpful. We are now focusing on portrayal separately from our production activity to ensure we fulfil our obligations and public purposes both in our established production centres and in other areas of the UK, where we cannot rely on any linkage to activity.

Figure 1: Network spend by area over time



In the last Charter period our Network Supply Strategy was focused on building sustainable production bases. Sustainability of an ecology is driven by the critical mass of supply in a particular genre or sub-genre in a location requiring the same skills base, which enables them to be occupied all year round, and have the capacity to self-generate new business to maintain that position with new commissions. The level of business at which that is achieved varies by genre. When a base is sustainable, creative leadership is attracted and remains because of the variety of projects in that location, and in turn attracts future commissions, supporting the development of future generations of talent.

Given the importance of the volume of demand and supply to generate sustainability we have had to make strategic choices to maximise critical mass. We acknowledge that sustainability is still not fully achieved in all areas across the nations and regions, and with declining budgets, this will require an industry wide effort.

### Market and regulatory context

The BBC's progress in this area has been achieved while the markets we operate in have changed very significantly. The changes in the media market over recent years are well documented. Today's media environment is increasingly global, and more and more dominated by a small number of non UK based media and technology giants. Ten years ago, around 83% of independent production companies in this country were either UK-or European-owned. Today that figure is less than 40%, with the rest owned by multinationals. At the same time an Ofcom report from 2015<sup>1</sup> showed that programme investment by the PSBs has fallen in real terms since its peak in 2003 with an underlying shift into entertainment, comedy and (specialist) factual at the expense of drama and factual entertainment.

These trends have driven quality and choice, significant profits and consolidation for production companies and encouraged new business models designed to take advantage of latest technologies and shape audience needs. But they have also driven up costs for broadcasters and producers, creating super-inflation in key areas like drama and comedy production, rights and talent costs.

This means the environment Ofcom now regulates is very different from the one it regulated a few years ago, and almost unrecognisable from the one in which the guidance was first introduced in 2004. Over this time the UK's TV sector has been a great international success story, exporting highly successful formats, talent and ideas and attracting significant inward investment from overseas.

And the UK's nations and regions have played a key part in this, as can be seen by global successes such as Doctor Who, produced in Cardiff, Line of Duty in Belfast, Mrs Browns Boys and Earth's Natural Wonders from Scotland, Blue Planet from Bristol and Peaky Blinders set in Birmingham. The current system has enabled these successes by allowing the right balance between significant local investment and creative flexibility.

Looking ahead it is therefore vital that the regulatory system in which we operate is able to recognise and maintain the flourishing ecosystem – allowing for creative competition and flexibility so that the UK's PSBs and indigenous production companies can continue to compete internationally.

It is also critical, in this ever more competitive and global environment, that Ofcom is mindful of the balance between the regulatory requirements placed on the BBC, the rest of the PSBs and commercial operators. While each PSB, commercial and global operator has different funding and constitutional arrangements that explain differences in respective obligations and levels of regulation, we are all operating in the same market, competing for the best ideas and production talent.

Therefore we believe it is critical that, in considering any changes to the outside London guidance, Ofcom takes a longer-term view for the production industry outside London and takes into account the wider skills and training environment, as well as the commissioning environment beyond the PSBs. Further, we would expect Ofcom to ensure that regulatory obligations do not outweigh the benefits of being a PSB and that indigenous broadcasters and producers can remain competitive. Clearly this point extends way beyond the scope of

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<sup>1</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0027/79551/o\\_o\\_annex\\_trends.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0027/79551/o_o_annex_trends.pdf)

this review but we do note the level of granularity of the quotas the BBC has been tasked to deliver compared with all other broadcasters.

*Figure: The differences in regulatory obligations for network production*

	Out of London %	English regions %	Devolved nations %	Scotland %	Wales %	Northern Ireland %
	£/hours	£/hours	£/hours	£/hours	£/hours	£/hours
BBC	50/50	28/30 (30/30 from 2022)	-	8/8	5/4 (5/5 from 2022)	3/2 (3/3 from 2022)
ITV1	35/35	-	-	-	-	-
Channel 4	35/35	-	3/3 (9/9 from 2020)	-	-	-
Channel 5	10/10	-	-	-	-	-
Commercial	-	-	-	-	-	-

Note: BBC quotas apply to all BBC TV channels except BBC Alba, while ITV, Channel 4 and Channel 5 quotas apply only to the main PSB channel.

These quotas for hours and spend, alongside the very wide-ranging mix of other supply and output quotas or requirements, play a shaping role in our decision making for commissioning, re-commissioning or decommissioning each year. For instance, one of our formal requirements is to ensure at least 25% of our qualifying TV output across all channels is reserved for independent producers, with separate requirements for at least 25% on BBC One and 25% on BBC Two and that these productions are allocated to a range and diversity of programmes. This provides an important safeguard to ensure we are commissioning from a wide range and diversity of suppliers and helps ensure we are developing the creative ecology in all parts of the UK that has a range of players – big and small, broad and niche, established and fresh, reliable and fresh. Indeed, last year we worked with 295 indies, of which 58 were new.<sup>2</sup>

But ultimately we want these decisions to be taken with audience considerations placed front and centre, and the regulatory framework needs to allow for that. We have to be able to commission the best possible ideas to delight audiences in the UK and showcase the best of British creativity around the world. The imposition of a multi-layered system of quotas risks creating perverse incentives around commissioning – for instance driven by volume or location rather than quality, or simply to hit quotas rather than build sustainable production bases.

### **Implications for BBC strategy**

For the BBC the new Charter, the changing market context and our new regulatory obligations means we will evolve and refresh our approach to Out of London production, aiming to make it even more successful.

Our new strategy is guided by an over-arching principle. For production in the Nations and regions to continue to succeed, and be even more successful in future, it needs to be able to

<sup>2</sup> Broadcast Indie survey 2018

embrace and respond to the challenges and opportunities of the international market, every bit as much as the London-based sector has done.

Our specific plans are still under development but at this stage, based on the size of the current slate, in the next few years we will be:

- investing at least £10 million a year more in the English regions
- increasing the volume of production in Wales and Northern Ireland by up to 200 hours a year
- strengthening our centres of excellence around the UK
- increasing the budgets for BBC Wales and BBC Northern Ireland to support the sector, and launching a new TV channel in Scotland (subject to final approval by Ofcom).

This represents a further step change in the BBC's out of London contribution. But we cannot work alone on this. The success of Nations & Regions production relies heavily on critical mass and volume of demand. The BBC alone cannot create critical mass in more and more locations, particularly in light of many years of real-terms cuts in funding. We have, and will continue, to make strategic choices about where our creative clusters will be and where we target our resources.

There is, therefore, a real opportunity here for the sector across the whole UK. Channel 4's revised commitments in this area together with our enhancements mean there is, for the first time in many years, scope for a healthier commissioning and development slate which has a greater chance of sustainability and a greater chance for companies in the nations and regions to drive their own ongoing success. We would encourage and welcome other broadcasters to contribute to this opportunity. If we are all buying then companies have a better chance to grow and attract talent based on a 'healthier' commissioning and development slate.

### **Implications for Ofcom guidance**

Under the current guidance in order to count towards out of London production quotas, productions must meet two out of the following three criteria:

- the production company must have a substantive business and production based in the UK outside the M25. A base is substantive if it is the usual place of employment of executives managing the regional business, of senior personnel involved in the production in question, and of senior personnel involved in seeking programme commissions;
- at least 70% of the production budget must be spent in the UK outside the M25 (excluding the cost of on-screen talent, archive material, sports rights, competition prize-money and copyright costs); and
- at least 50% of the production talent by cost must have their usual place of employment in the UK outside the M25 (i.e. not on-screen talent).

In practice the allocation of a particular production to a Nation or Region is a two-step process:

- Firstly, is it an out of London production? This is meeting at least two of the three criteria
- Secondly, where does it get allocated to? Ofcom guidance is that it should be allocated to the nation/region in which at least two of the three criteria are met. If this is not applicable then the programme should get allocated to wherever the substantive base is (unless a London base in which it would be Multi Region). In reality most programmes get allocated to the substantive base.

At the point of commission we are very clear about the out of London requirements for each production. We specify whether programmes should be Scotland, Wales, Northern Ireland or English Regions productions and reference the Ofcom guidelines.

Our experience of working to the current Ofcom guidance is largely positive. Our intention has always been to work both the letter and spirit of the guidance and always to aim for developing and supporting sustainable growth.

Within the scope of the current definitions we have been able to:

- Grow significantly our activity outside London while retaining crucial flexibility in a global market-place (e.g. to change content strategy, to support new talent as and where they emerge, develop local talent but allow for some targeted import of specialist skills where necessary to realise the ambition).
- Actively support local suppliers and development, but with space for new entrants or expertise to create competition where required, or establish a broader genre footprint in a location.
- Recognise that each production ecology is different and that a one size fits all approach would not encourage sustainable growth.

However it is critical to recognise that while Ofcom definitions have been a useful tool to encourage out of London and sustainability they are not, nor can they ever be, the only driving force.

Rather they have provided a broad framework around out of London activity. Any changes to that framework therefore need to be thought through very carefully as to whether they will help or hinder the key drivers that will enable national and regional production to flourish.

The critical factors the guidance needs to support are, in our view:

- The level of demand for production outside London which is central to developing critical mass and driving talent development
- The range of supply needed to deliver high-quality content across multiple genres which appeals to all UK audiences and internationally
- The necessary levels of creative competition to raise the bar for high-quality content and maintain efficiency

All of which can be underpinned by partnership working and investment – from local agencies and training bodies, which provides skills development and facilities making areas more attractive to investment.

We recognise there is a view in some parts of the sector that the definitions need tightening up and made more restrictive. In our view this would be a disruptive and counter-productive step which would ultimately hinder the ambitions of the majority of nations and regions producers as well as significantly increasing the bureaucratic burden on broadcasters and producers.

That is not to say that further improvements cannot be made - but these are incremental developments focusing on clarity, transparency, and consistency across the whole sector. And in our view would help to develop greater understanding of how the definitions are actually working in practice and inform more considered analysis of the out of London sector as a whole.

Taking each criterion in turn:

#### Substantive base criterion.

Our view is that the current definition of a substantive base is clear, robust and fit for purpose. It specifies that for a base to be substantive it must be the usual place of employment of executives managing the regional business, of senior personnel involved in seeking programme commissions and of senior personnel involved in the production in question.

As outlined above we have always worked to both the letter and the spirit of the definition – ensuring that the base is genuinely both substantive and the usual base of senior executives working on the production. We have developed our own internal guidance to support which includes how to deal with a newly established base, how to deal with co-productions, sister companies within groups, and what constitutes a senior executive.

We have examples of programming that we have not reported as being made in a Nation because, subsequent to the production being completed, a base set up with the genuine intention of being substantive closed. In future we believe some industry wide best-practice or more detailed guidance in this area would support consistency and transparency.

The alternative suggestions for this criterion we have seen are that this should specify that a base would need to have existed for a number of years in order to qualify, or that the company owners must live in the location or that three key management roles for the production to be resident for tax purposes in the relevant nation/region.

In our view such changes would be counter-productive, restrict flexibility and hinder competition. The likely outcome would be to preserve the current supplier base and disincentivise producers from setting up and investing in bases out of London in line with demand. Limiting the possibility of competition and new investment into a region would mean the PSBs might limit their ambitions of programme commissioned from that area, restrict opportunities to expand into new genres or content areas, or reduce the chances of developing new global formats outside of London.

This would be self-limiting, and highly detrimental to creative competition and the objective of genuine sustainability. Given the high degree of specificity over the BBC's quotas such a move would, in effect, provide a commissioning guarantee for certain companies, no matter the level of quality or price they offered – and with little natural incentive to drive creativity,

efficiency or quality improvements over time. Over the longer-term the gap between London and certain locations would probably grow wider rather than move closer together as is our ambition.

#### Production spend criterion.

We believe this criterion remains suitable for its purpose. The requirement for at least 70% of the production budget to be spent outside the M25 ensures they invest the vast majority of spend locally, while allowing the right amount of flexibility for producers to produce the most creative high-quality content and to compete internationally.

Again our view is that it would be beneficial in terms of both consistency and transparency to agree industry wide best-practice or more detailed guidance on the application of this criterion (e.g. how to deal with production fee, overheads, travel bookings).

We are also supportive of Ofcom's proposal to collect and report actual percentage spend achieved. This will increase transparency and support compliance.

We feel the current level of 70% drives strong focus towards local investment as a priority, but allows enough flexibility to ensure delivery and quality if facilities or services are not available in an area. Although this may change in future, not all areas currently have high-end post production, studio or specialist effects facilities. A production may need specialist costume services because of the period, special effects or lighting because of the genre, or specific locations for a small number of scenes for authenticity. It would restrict creative ambition if the guidance did not allow such opportunities across the UK.

In smaller ecologies, facilities and skills are in shorter supply, so during peaks of activity when demand is high, the need to import specific skills may be essential for a short period, or during a time of rapid growth until supply grows to match demand. We have frequently experienced this issue in Drama in all three Nations, even in the most sustainable bases. An argument has been made that broadcasters should only count the actual spend in the region towards their nations and regions quota, whereas the current system requires the production to hit a 70% threshold.

We cannot see how this would work in practice without requiring a material re-calibration of all supply spend quotas and significantly increasing the compliance burden on production companies and broadcasters. Presumably it would require collection, compliance checking and reporting of the location of every pound spent and then allocated somewhere. It would also not be a suitable framework for the hours part of the supply quotas, adding further confusion. In addition it would make the other criteria largely redundant.

One of the unintended consequences of such a change would be to reduce the opportunity and potentially ambition for nations and regions companies. Over time subject matter and stories could be restricted to just the ones which could be filmed locally to drive achievement of quotas. We have recently commissioned a Scottish supplier for a prestigious series which is set in London and likely to have global appeal. This will currently qualify against our out of London and Scotland quotas and we expect will support the commercial success of the company. Any revised approach which meant the spend and hours of this programme would not qualify against these quotas would create a perverse outcome whereby the system would, in effect, not recognise the value to the Scottish economy as well

as the chance for international sales for that company. The ultimate risk is that we would be unable to commission the best ideas.

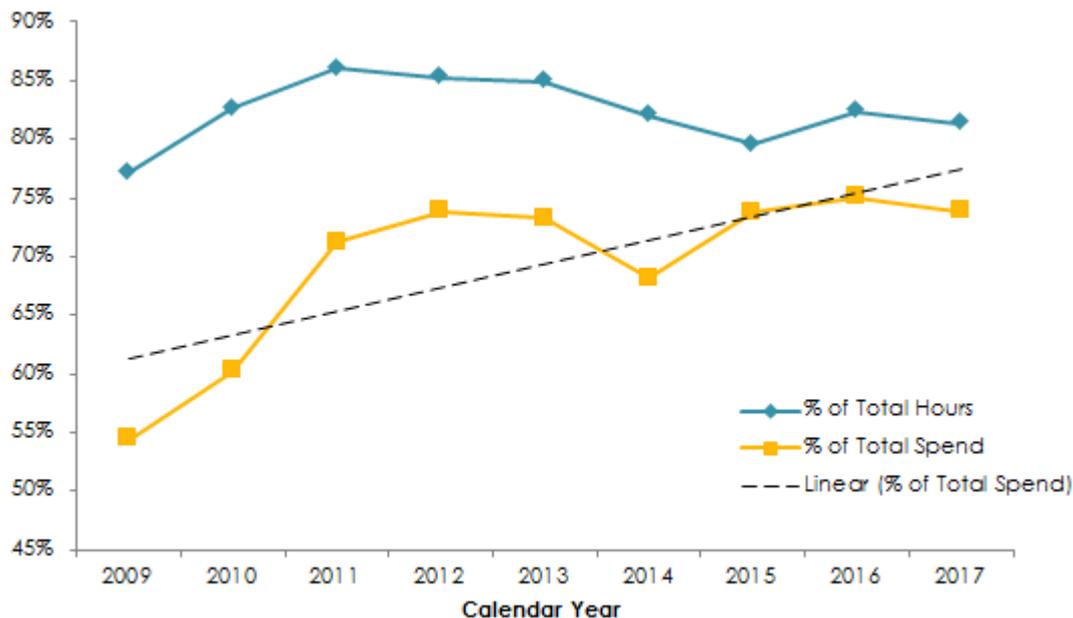
### Talent criterion.

Our view is that the requirement that at least 50% of the production talent by cost must have their usual place of employment outside the M25 should not be changed. As with the spend criterion it provides flexibility for producers to recruit locally and produce the most creative high-quality content and to compete internationally.

Again our view is that it would be beneficial in terms of both consistency and transparency to agree some pan industry best-practice or more detailed guidance on the application of this criteria (eg the criteria refers to production talent excluding onscreen talent but is not specific regarding writers, composers).

We have also considered whether it would be reasonable to require all three criteria to be hit. As we currently do not collect, on a routine basis, the precise percentages we cannot undertake a sensitivity analysis to assess the impact of adjusting the thresholds. However we can explore the interplay between the three criteria. We have been able to assess how much of our productions meet all three criteria has changed over time, as shown in the Figure below.

*Figure: Percentage of BBC's nations and regions production meeting all three criteria, by spend and hours*



Our analysis shows that

- Where productions meet the substantive base criterion, the vast majority also meet the other two - the substantive base measure can be considered the most important of the three in terms of achieving long term, sustainable investment into the nations and regions.

- In 2017, 75% of qualifying BBC out of London production spend and 90% of hours met the substantive base criterion
- The proportion of BBC qualifying MOL spend which meets all three criteria has been c.74% since 2012, however, looking at the longer term trend, this has increased from 54% in 2009 - a good indication of the success of developing sustainable bases in the nations and regions.

This shows that the existing criteria are already helping to drive a long-term and sustainable impact, and certainly does not suggest the case for radical change is met.

### **Our proposals for change**

However it is clear that there are parts of the sector where confidence that the system is working is low. We believe there are changes Ofcom can make which would materially improve the level of transparency and the confidence of the sector that the system is working as it is intended. Specifically, on collecting data and reporting we propose that:

- Broadcasters are required to collect more granular data from production companies to demonstrate compliance (e.g. the roles and names of senior executives involved in the production in question).
- Broadcasters report more information to Ofcom on an annual basis. Such data should include the precise percentage against the spend and talent criteria and the postcode of the substantive base.
- In turn, Ofcom's reporting should be more granular, clearer in criteria labelling and allow those who are interested to interrogate the data more easily. Ofcom could explore different ways of presenting and reporting the data such as interactive maps, use of data visualisation techniques, annual industry briefings etc.

We also believe there is more Ofcom, perhaps with a working group representing the broadcasters and independent sector, can do to provide clarity to the sector over compliance, and to ensure a common set of industry standards are being met. The introduction of pan industry guidance, to sit alongside the definitions, would ensure greater consistency across the sector on the treatment of:

- various cost categories (overheads, travel costs, production fee)
- senior executive roles
- group companies
- new substantive bases
- joint productions
- Special Purpose Vehicles

We also propose Ofcom clarifies its guidance in the following areas:

- Non UK classification – the requirement refers to programmes made in the UK and that are made out of London. We have previously agreed with Ofcom how to define non UK productions – but it may be helpful if Ofcom re-verifies this and publishes such guidance for clarity.
- Non UK Filming – Ofcom's guidance is that spend made overseas cannot be counted as out of London expenditure (so in effect counts as London spend). We

propose Ofcom re-visits this in Phase 2 of its review given there is a risk that this might be dis-incentivising regional productions from taking a global outlook.

- Acquisition vs Commission – Ofcom’s guidance does not specify that this refers to commissioned programmes only. In practice most acquisitions are non UK productions and are therefore excluded from the quotas but it would be helpful for Ofcom to clarify the treatment of acquisitions.
- Less than 25% funding threshold – the indie quota specifies that qualifying programmes must have at least 25% funding. Ofcom’s guidance does not refer to this although we agreed with Ofcom to mirror the indie quota requirements. It would be helpful for Ofcom to clarify the position.

### **The multi-region category**

We are proposing one further change to the guidance which will remove the anomaly whereby some programmes qualify against the out of London quota but cannot be matched against a specific quota for a nation or English regions because relevant budgets are spent in more than one area without hitting the appropriate thresholds to be assigned to a single area. They therefore default to a category called “multi-region”. We propose in future a change to the guidance that would mean all productions which qualify as out of London and are entirely based in the English regions must be assignable to a single macro region.

Over the past 5 years the BBC has averaged around £12m (c1.5%) a year for productions actually made in the English Regions but which cannot be assigned to the English Regions quota. While this issue has existed since the guidance was introduced, it has only become a pressing concern since 2018 when Ofcom introduced a specific English regions quota for the BBC. Put simply there is a clear cut case for the guidance in this regard to be updated in light of the changing regulatory environment. Our proposal is that, only in such cases, the determining factor is simply where the most production spend occurred. This is the simplest way to remove the unsatisfactory position whereby some genuine English Regions productions cannot count against our English Regions quota.

## Response to consultation questions

Our core points are all outlined in the summary above. This section provides a summary or additional information against the questions in Ofcom's call for evidence document.

### Questions about the TV production sector landscape

*1. Which factors have, since the guidance was introduced in 2004, had the biggest impact (positive or negative) on the TV production sector in the nations and regions and why? Are these different to the factors affecting London-based productions?*

The production environment has changed beyond recognition since the guidance was introduced in 2004. These changes, characterised by evolution from cottage industry to super-indies, with spend more and more dominated by global multi-national tech/content companies, are very well documented elsewhere and summarised in Ofcom's call for evidence document. Some of the key developments are well summarised in a report commissioned by the BBC in 2017.<sup>3</sup>

From the BBC's perspective we would point to our network supply strategy, launched in 2008, as the single thing which has done most to transform the nations and regions production landscape since the guidance was introduced. This has strengthened the sustainability of our chosen production centres – but there is still a gap between London and the nations and regions particularly in terms of international sales and profitability.

The consolidation of the sector, which has led to significant structural change in London, has had less impact Out of London, and in some locations there still are a considerable number of smaller companies with low turnovers, and highly dependent on PSB spend. This can limit their ability to employ permanent professional development teams and stimulate business growth.

As audience consumption changes, and budgets reduce, there is an increasing need for series with on-demand appeal either through subject matter, style of execution or format appeal. Currently, we receive far more ideas of this nature from London based suppliers than from the nations and regions.

*2. What impact, if any, has the BBC's move to Salford had on the sector, and on regional production specifically?*

The BBC's move to Salford has been subject to several independent reviews including by the National Audit Office<sup>4</sup>. We estimate that employment in the creative industries grew by more than 7,000 between 2011/12 and 2015/16. A review by KPMG in 2015<sup>5</sup> found a significant positive contribution of the BBC to the Salford area in terms of employment, increased skill

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<sup>3</sup> <https://secure.toolkitfiles.co.uk/clients/19826/sitedata/Reports/171102-Mediatique-Report-Content-D.pdf>

<sup>4</sup> [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review\\_report\\_research/vfm/nao\\_salford.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review_report_research/vfm/nao_salford.pdf)

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[http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/charter\\_review/annex\\_b\\_market\\_impact.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/charter_review/annex_b_market_impact.pdf)

levels and spill-over effects. KPMG concluded that the BBC's activities in the North West (predominantly driven by the Salford site) contributed £277m to UK Gross Value Added (GVA) in 2014/15, including both indirect and induced benefits. This was equivalent to approximately 5% of the GVA of Salford, 2% of the GVA of Manchester and 6% of the GVA of the UK's programming and broadcasting activities sector. The total indirect and induced employment arising from the BBC's presence in the North West was 3,778 jobs. Furthermore, KPMG found evidence of 'agglomeration' and 'network' effects, with the BBC's presence attracting other media organisations and helping to establish MediaCityUK as a hub for firms with creative and digital capabilities.

It is clear that such a level of investment and activity has had a positive impact on regional production in the north-west. The four years to 2015 saw regional indie revenues rise by nearly 50%. This was stimulated by our moves in Salford as well as Cardiff and increased activity in other out of London locations.<sup>6</sup> We don't see any evidence that the growth of Salford has explicitly been to the detriment of other English Regions. From the BBC's perspective, we moved in-house Sport and Children's production teams to Salford. There were other significant moves between English Regions and English Regions and Nations (e.g. Birmingham to Bristol, Bristol to Wales), but not, as far as we can see, from other English Regions to the north-west.

*3. Do the opportunities for nations' and regions' producers vary by genre? If so in which genres is it easiest and hardest to get commissions?*

Our central commissioning principle is that commissioning is done on the basis of the best ideas, wherever they come from. Our commissioning process aims to be fair and transparent, introducing competition for programming to ensure the best ideas are commissioned for audiences. Our ability to commission from any location is directly related to the strength of ideas, which in turn is related to the health of the supply base.

That said our approach to network supply has been informed by an understanding of the production sector across the UK and building on existing strengths. Trying to develop the critical mass needed to support production across all genres in all locations does not make strategic or economic sense. Our experience shows that individual production ecologies need to be of a certain scale to attract and retain the quality of talent needed for network TV programmes. With constrained content budgets, spreading production thinly across the UK would have proven counter-productive.

We have therefore made strategic choices as to which bases can achieve sustainability in which genres and developed a 'Centre of Excellence' strategy to enable sustainability and quality in each location. We have drawn on the local creative ecologies (e.g. between network, local and other broadcasters, TV and radio, in-house and independents) to develop different genre specialisms in different nations. In Wales and Northern Ireland, for example, this has

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<sup>6</sup> Broadcast Indie survey 2018

meant pursuing a higher-value, lower-volume drama strategy. In Bristol we have consolidated and enhanced its position as a world-class base for factual programming.

From a production perspective, location and talent continue to be a key consideration in the commissioning process, and the more commissioning across the broadcasters is spread across the UK the better access production teams will have to a reliable pool of talent and skills. As outlined above, growth opportunities for regional producers are provided by global and commercial commissioners as well as UK PSBs and the tax credits for high-end programming has been successful at attracting investment into UK content production.

We have opportunities Out of London across all our genres. The limiting factor is less the opportunities, more the talent, facilities and supply base to deliver them. We have focused our centres of excellence around the availability of those elements, or where we think we can attract them. Other broadcasters sometimes follow suit knowing there is an experienced supply base there.

For instance:

- We have developed a focus on Entertainment Quizzes in Scotland based around the Studio in Pacific Quay, and in Wales our commitment to Dr Who, Casualty and Pobol Y Cym in the Drama Village has stimulated talent, supply and further facility development along the South Wales corridor.
- We have encouraged Children's production in Northern Ireland to build on their animation graduate skills base.
- And although most production bases have factual production skills available to a greater or lesser extent, we have tried to specialise clusters where possible within the broader genre to create sustainable ecologies, for example Natural History in Bristol, and Specialist Factual in Scotland.
- Comedy remains a genre which is very talent dependent (both writing and performing) and is therefore hard to create a critical mass in a single location outside of London. Sit-coms require studios, so although Mrs Browns Boys was developed and commissioned through Northern Ireland, it is produced and recorded in Scotland's PQ Studio as there were no suitable facilities in Belfast.

#### *4. What are stakeholders' views on the impact anticipated future structural changes in the industry might have on the production sector in the nations and regions?*

In future we would expect growth in regional production, subject to the broad regulatory framework remaining in place. As outlined above our revised network supply strategy will increase investment out of London. We also welcome Channel 4's new out of London strategy, which should help increase demand and help support sustainability.

It is likely that growth happens in some genres with contraction, or slower growth, in others. With increasingly crowded and competitive markets broadcasters now compete against a range of traditional and new players to secure content and attract audiences. Competition is centred around more premium, more global content and more expensive programming. This

will create both risks and opportunities for out of London which we would expect Ofcom to explore further in Phase 2. To ensure growth in these areas across the UK requires flexibility, agility, competition and a shared strategic direction.

#### Questions about the substantive base criterion

*5. In your experience does the definition of a substantive base work well in practice? If not, how could it be improved?*

*6. Does the criterion currently contribute to the objective to strengthen regional production? If so how, if not why not?*

*7. Are there any circumstances in which an office designated as the usual place of employment of senior or executive personnel should not be considered a substantive base? If yes, please provide further explanation.*

*8. Does this criterion currently create any unintended consequences?*

*9. We would welcome any information/examples from production companies on the range and roles of staff in production offices outside of London.*

*10. Do producers tend to share space in the nations and regions in order to expand and contract in line with their commissioning slate and thus to help with costs/efficiencies?*

Our view on these questions is outlined in the summary above, where relevant. We believe that the substantive base criterion works well in practice and that the changes suggested by parts of the sector are merely a recipe for preserving the current supply status quo, rather than encouraging future growth. It is clear that the current guidance means active business development and local leadership for each title and that “brass-plating” is not an issue, provided interpretation is within the spirit and letter.

#### Questions about the production budget criterion

*11. Is the production budget criterion set at the right level?*

*12. What challenges do producers face in meeting this criterion? Do these differ dependent on the substantive base of the production?*

*13. Does this criterion currently create any unintended consequences?*

*14. We welcome any evidence/data of how production budgets for nations’ and regions’ productions work in practice.*

Our view on these questions is outlined in the summary above, where relevant. We believe the spend criterion remains a suitable criterion and is set at around the right level. Clearly the threshold needs to be set at a level which works for all locations and all relevant genres. To some degree there is a virtuous circle here – the level has to allow some import of

specialist skills in order to give the programme the best chance to be high-quality which makes it more likely to be a returning series which makes it more likely to be sustainable. We also support the current threshold approach which provides a fair representation of regional activity while minimising the bureaucratic burden on the sector

We also note that spend in a given region does not always translate into sustainable growth for the local industry, particularly if a programme is a 'one-off' rather than a returning or long-running series (where it is more likely to sustain local employment and grow a local skills base), but this is an inevitable part of the creative process, and the right to 'fail' remains an important principle.

We believe more clarity and consistency on what is included e.g. production fee, overheads would be helpful.

We note two further points of detail around this criterion:

- Limitations – more post production out of London would be beneficial – which is dependent on other broadcasters also contributing to critical mass to make this commercially viable. Often, especially in high end drama or comedy, a production may shoot entirely in a single location, but if the post production facilities either aren't available at all, or do not have the relevant experience in that genre, it can be a challenge to spend in that particular macro-region, although may still be possible Out of London. This is a significant contributory factor to multi-region spend and a significant challenge in scripted genres where there is not critical mass close to the shooting location. Even in Factual, which is more prevalent as a post-production specialism Out of London, certain sub-genres e.g. fixed rig needs specialist editing experience and knowledge. Post Production is a critical part of a quality product and needs more focus in facilities and skills development, but also currently demands flexibility within the Out of London arena to ensure the audience experience is not compromised.
- Facilities – availability and capacity can limit ability to produce Out of London in certain locations. For instance Mrs Browns Boys is shot in Scotland not Belfast because facilities in Belfast are not currently of sufficient scale to accommodate a sitcom. However, as Scotland has developed as a centre of excellence for quiz and comedy, it is now getting to a point where one studio is not enough capacity in Scotland – and at some times of the year producers are finding it hard to get access in line with their production schedule and transmission deadlines. Although this is manageable at the moment, this could limit commissions without further facilities being developed. Relatively speaking Scotland is also light on purpose built Drama facilities compared to Wales and NI. This does make production more challenging and less efficient.

Questions about the off-screen talent criterion

*15. Is the off-screen talent criteria set at the right level?*

Yes. This criterion drives focus on using skills Out of London, whilst also allowing flexibility where specialist skills are required.

In some locations, where we feel sustainability and talent is high we insist on the 50% criteria being met in the specific location, but this is not possible in all genres in all locations, so we feel that the criterion needs to be set at a level applicable to all.

With stronger guidance and greater transparency broadcasters can encourage the right behaviour and application, whilst maintaining flexibility for smaller ecologies or where we may be producing in a new genre for the first time. An interesting example of where flexibility is working in practice is in Comedy. Local production budgets have traditionally not been able to afford Comedy in Wales and Northern Ireland, although new BBC investment has now enabled this.

However, the supply base and talent skills are not as readily available as elsewhere. The Comedy Unit in Scotland is currently producing shows for both BBC Wales and BBC NI, bringing their expertise and knowledge of the genre, whilst also supporting the growth of an out of London company. In genres like Comedy where it is hard to create critical mass in several locations, we need to encourage this type of cross fertilisation of skills between and across locations, and it would be detrimental to future development if any changes to the current criteria restricted that ability or made it more complex to achieve.

*16. How easy or difficult is it for programme makers to fulfil the current criterion?*

This varies by location and by genre, where possible we actively support their ability to achieve this locally by using expert knowledge on the ground. For instance in Northern Ireland, where there is a relatively small ecology in Drama, when demand is high, talent can be in short supply. We have production management expertise in BBC NI who advises on production schedules and talent availability to try and help with this to ensure we are able to maximise the volume of Drama, and the use of local production talent across a year.

We have also worked strategically to develop greater volumes of talent over time, using Daytime and Children's Drama to broaden the range of experience between local and global Drama productions. Talent availability remains challenging at times, particularly with such a large scale production as Games of Thrones shooting for 9 months of the year, and so the flexibility to recruit outside Northern Ireland is necessary for specialist skills or where on-screen talent or transmission schedules dictate timings. Our commissioners in other locations regularly advise on local talent and expertise.

*17. Is there a representative spread of nations' and regions' talent at all levels available to hire? Are there certain roles where it is not possible to fill roles from the nations and regions alone? If yes, which roles and what impact does this have on production budgets?*

This varies by location and genre, but in general we find there are shortages at a senior level i.e. experienced Showrunners, Executive Producers, Series Producers, specialist Directors, specialist craft skills and high end Post Production.

*18. Do broadcasters give producers the flexibility to employ the staff they want regardless of location?*

There is always a discussion to be had at the senior end of the production regardless of location (in London and outside) to be confident of delivery. This is particularly acute if the talent is connected to the qualification as a substantive base, for that particular production. We occasionally have to point out to some companies the clause in the criteria relating to the production in question. So for example, having a substantive base in Factual is not relevant for a Drama production, as we require senior personnel on the production in question.

*19. Which roles, if any, are most often prescribed by the broadcaster? Does this vary by genre?*

As above. This is a discussion between broadcaster and producer pre-commission.

*20. Does this criterion currently create any perverse incentives?*

As above, we believe the balance is right.

*21. We welcome any evidence to suggest whether the distribution of off-screen talent and the range of skills available has changed since this level was set in 2004.*

We believe some areas have strengthened their skills base as a result of our strategy and increased production spend, particularly in Factual. But this varies considerably by genre and within Factual by sub-genre, and by location. Overall therefore we believe this criterion remains fit for purpose.

Our experience is that the off-screen talent criterion is generally where production teams identify the most pressure. In very general terms there is now good access to local talent at the more junior and middle levels, but talent and skills pools vary significantly in different regions and genres. In more competitive genres such as high-end drama, having two or three big shows shooting concurrently can lead to intense competition for local talent, meaning timing and budgets can come under pressure.

In terms of prescription by broadcasters of specific talent, it is likely this happens in some instances at the most senior levels such as Director, Executive Producer and Showrunner level. Such roles will often be London based although there are many exceptions. Such roles can sometimes be London based, where they are specialised, although there are many exceptions. But if so this is taken into account within the qualification criteria (e.g. may not be counted as substantive). In some cases, where the series is returning, we may invest to develop shadowing roles alongside imported skills to enable local recruitment in future series.

Over time, and with the right interventions by the PSBs and sector, focus on training and talent development out of London will ensure there are more sustainable talent pools for the industry to draw on in more places.

#### Questions about the criteria as a whole

22. Are the three criteria used to define a regional production for the purposes of the quotas the correct ones or are there other factors that should now be included instead/ as well?

23. How well do the criteria collectively contribute towards the sustainability of the production sector outside of the M25?

24. Are there any unintended consequences of the criteria or guidance more widely that undermine the sustainability of the sector beyond the M25?

25. Are the criteria too narrow? For example, are there cases of nations' and regions' productions that fail ultimately to qualify towards the regional production quota?

26. Is the criteria-based approach the best for regulation in this area, or are other models that might work better?

Our view on these questions is outlined in the summary above, where relevant. In general we believe the criteria as a whole work well and have provided a framework which has encouraged significant growth in regional production and local investment in infrastructure, facilities and talent. Any significant changes would require re-casting the entire quota and compliance system and likely take several years to implement.

Above we argue for further clarification around some parts of the guidance to reflect the way the industry works.

#### Questions about the role of London in the regional production process

*27. In your experience how big a role does London play in nations' and regions' productions and in what way?*

*28. What benefits/disbenefits do you consider 'Lift and Shift' production brings to the nations and regions? We would welcome case studies/examples of 'Lift and Shift' productions.*

*29. Does 'Lift and Shift' help or hinder the sustainability of production in the locality of a production and in the nations and regions more widely?*

*30. Are there different parts of the production process which are more likely to happen in/out of London?*

Over the past ten years or so it is clear that production has become more and more dispersed across the UK. Much of this has been driven by the BBC's investment and efforts. It is also clear, however, that London remains the centre of gravity for the sector. This is not

surprising. London is a major global financial and economic centre and it is not something unique to the UK that activity in this sector is concentrated geographically.

Our ambition has always been, wherever possible, to support regional production to grow organically, but there are a number of occasions, and reasons, where moving returning series from one location to another is the best way to proceed. Typically we have used “lift and shift” where necessary to:

- provide a foundation for a sustainable production base in a new area or a new genre in an established location to support skills and talent development
- strengthen an established production base that is not thriving
- provide a vehicle to train or develop talent in a new style of production within an established genre.

As stated above, we have used this sparingly, given it can be disruptive for suppliers and incur non-content transition costs that are taken away from UK content investment. However, by their very nature production ecologies across the UK differ in size and personnel availability, and therefore do not always have the scale and variety of production to develop organically all the talent roles needed in a globally competitive environment. Whereas short or one-off commissions can attract high-calibre production talent, without returning business or similarly ambitious projects in that area they will often not stay in that location. Returning series are therefore critical to provide a regular drumbeat of work as well as a framework to develop more junior talent.

For example, establishing Casualty and Dr Who in Wales, has provided the vehicle for production drama talent to locate there and to develop more indigenous talent. Writers, directors, script editors, camera operators, costume, carpentry etc can develop and hone their skills faster on a regular returning series, and move from there to other work in Wales or elsewhere.

Similarly the move of Egg Heads and Weakest Link and in Scotland has led to the creation of a Quiz specialism using the studios complex in Glasgow. The vast majority of BBC quizzes now come from Scotland, and Channel 4 and ITV have also commissioned from this production base. Without the first move of titles to provide a bedrock, we would not have the critical mass of specialist talent required to enable these bases to deliver high quality production in these areas.

#### Further information on representation and portrayal requested

*31. We would be interested in receiving evidence or case studies from stakeholders which could develop our understanding of the contribution that regional productions currently make to representation and portrayal of the nations and regions in order to gain a sense of the scale of this consequential benefit.*

Our main observation here is that our original assumption – back in 2008 - was that if we created sustainable production bases out of London – creativity and portrayal would follow,

organically, as a key side benefit. This has turned out to be only partly the case. In fact spreading production across the UK is an economic intervention while portrayal and representation is a much more complex ambition to realise, and, in our view, trying to link the two things is not beneficial to the audience or the sector. We do not accept the arguments that the criteria should be revised include, for example, on-screen talent or representation or portrayal factors. It is critical that the guidance continues to allow production companies outside of London to bid for the widest range of commissions possible rather than be limited to only making programmes about the areas in which they are situated.

We are now focusing on portrayal separately to ensure we fulfil our obligations/public purposes both in our established production centres and in other areas of the UK, where we can't rely on any linkage to activity.

#### Questions about the process for allocating productions

*32. Does the process by which productions are allocated to a nation or macro-region work well in practice, or are there any other approaches you think we should consider instead? E.g. allocating proportions of one title to the different areas in which it was made.*

*33. Where a production has met the three criteria in different nations/ macro-regions the allocation defaults to the substantive base. Is this the right approach or does it deliver unintended consequences?*

*34. Is there anything else we need to take into consideration here? E.g. are the current nations and macro-regions the right areas to use for allocations?*

We do not believe there are alternative configurations for allocating both spend and hours that would work better in practice. The only exception is for multi-region, where as outlined above, we strongly urge Ofcom to update the criteria so that in the few instances a year that something qualifies as multi-region, the determining factor is simply where the most production spend occurred.

#### Questions about regional programming

*35. Are the on-screen criteria used to judge regionality appropriate, or are there other factors that should now be included instead/ as well?*

*36. Are the three criteria used to determine whether a regional programme was made in the area for which the service is provided appropriate, or are there other factors that should now be included instead/ as well?*

*37. Are there any other aspects of the regional programming section of the guidance which require more detailed review?*

We do not believe this part of the guidance requires further review from Ofcom at this stage, but would welcome further conversations depending on the outcomes of Phase 1 of this consultation.

## Questions about reporting and compliance

*38. What is useful about the current 'Made outside London programme titles register' and why?*

*39. Are there ways in which the Register could be improved? If yes, how?*

*40. Is there additional information which could be included in the Register to aid transparency?*

*41. Are there any other ways in which we could improve the transparency of our reporting?*

There are changes Ofcom can make which would materially improve the level of transparency and the confidence of the sector that the system is working as it is intended. Specifically, on collecting data and reporting we propose that:

- Broadcasters are required to collect more granular data from production companies to demonstrate compliance (e.g. the roles and names of senior executives involved in the production in question).
- Broadcasters report more information to Ofcom on an annual basis. Such data should include the precise percentage against the spend and talent criteria and the postcode of the substantive base.
- In turn, Ofcom's reporting should be more granular, clearer in criteria labelling and allow those who are interested to interrogate the data more easily. Ofcom could explore different ways of presenting and reporting the data such as interactive maps, use of data visualisation techniques, annual industry briefings etc.

## Other

*42. Are there other issues stemming from the guidance that are not addressed in this Call for Evidence? If yes, please set out what they are.*

**ENDS.**