

**Ofcom Advisory Committee for Wales**  
 Response to Ofcom's Call For Evidence:  
 Review of Regional TV Production and Programming Guidance

**Introduction**

The Ofcom Wales Advisory Committee (ACW) believes that Ofcom's proposed review of the guidance relating to the Made Out of London (MOL) quota is particularly timely, considering the extent to which the UK programme supply market has changed over the past few years. We believe that the following factors have had or are having a significant impact on network production sourced from Wales:

- the introduction of the outside of England production quotas for Channel 4 in 2010
- establishing the BBC's Roath Lock 'Drama Village' in Cardiff Bay07
- the creation of BBC Studios as a commercial entity
- the removal of the BBC's in-house guarantee
- the BBC's commitments, now included in the Operating Licence, to source 5% of its network productions from Wales (5% by spend and currently 4% by volume)
- interventions by the Welsh Government to help develop and sustain TV and film production in Wales.
- S4C's role in developing and sustaining the independent production sector

It is important to note the key role that S4C has played, after it first began broadcasting in 1982, in supporting and developing the independent production sector in Wales. Its investment, as a publisher broadcaster, has enabled the sector to grow significantly in Wales. For example two Wales based companies, Rondo Media and Tinopolis, feature this year in sixth and seventh place respectively in UK top 30 list of independent companies<sup>1</sup>. Both companies continue to be major programme suppliers for S4C, but have also increased their network supply output significantly.

We welcome Ofcom's stated aspiration, in enforcing this quota and in the supporting guidance, to secure investment in public service television (PSB) programmes across the UK's nations and regions in order to ensure that the full economic and cultural benefits of TV commissioning are realised across the UK. As stated in Ofcom's consultation document, *"when regional productions succeed, they can stimulate jobs, attract talent, and contribute significantly to an area's creative economy."*

We also note Ofcom's commitment to, *"monitor the balance between regional productions originated by regionally-based and London - based producers, and if it becomes apparent that London - based producers are dominating regional production, we shall consider further changes."*

The ACW notes the legislative background to this quota (and the requirement for guidance) in sections 286 (applying to Channel 3 and Channel 5) and section 288 (applying to channel 4) of the 2003 Communications Act . By today's standards the language used in the act is rather old fashioned, post devolution. The act uses the terms 'regional production', to apply to network programme supply from the UK's nations and regions outside London and the term 'regional programming', applying to programmes produced specifically, in our case, for Wales (as well as other parts of the UK). Given Wales' status as a nation, referring to it as a 'region' in this way is no

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<sup>1</sup> Broadcast Indie Survey, 16 March 2018

longer appropriate in our view, but we appreciate that, technically, from a legislative perspective, Ofcom has to work with the terminology used in the act.

The MOL quota should be considered in the wider context of a number of related interventions in the programme supply market introduced since the early 80s, currently contained within the 2003 Communications Act, which aimed to protect the interests of viewers, but which have also had an economic impact in supporting the development of the production sector. These include addressing the imbalance in negotiating strength between the PSBs as programme buyers and independent producers along with the risk that vertically integrated broadcasters could gain efficiencies by retaining all production in-house.

However, we note that, as stated in the consultation document, this current review of the MOL guidance does not form part of a full-scale review of the production sector. But we welcome Ofcom's intention to examine the production process, including how the guidance is applied in practice and whether it remains appropriate for the current and future shape of the production sector.

The MOL quota aims to address the outcome of market forces, where television production and commissioning still tends to be concentrated in London. In our view, this metro-centric concentration risks damaging the diversity of content available and it is undesirable from the perspective of viewers, both in Wales and across the UK. The 2018 Broadcast Indie Survey<sup>2</sup> notes that, *"TV is still a very London-centric sector: nearly 90% of revenues over this period came from the capital"*, adding that over the past three years, *"regional market growth has stagnated"*.

The MOL quota does not distinguish between in-house and independent production, but if the aim is to create sustainable centres of network production outside London, we believe that getting the correct balance is an important consideration. A market dominated by in-house production may not deliver the full range of economic benefits or aid sustainability in the long term. The full impact of BBC Studios on the network programme supply market in Wales is not yet clear, for example, whether it is having an impact on the BBC's commissioning processes and the opportunities for BBC Wales to supply network programmes. We have tried to explore some of these issues in greater detail in our responses to the consultation questions.

## Responses to the Consultation Questions

### 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?**

We have listed a number of relevant factors, applying specifically to Wales, earlier in this response. The creation of S4C enabled the independent sector to grow rapidly in Wales, just as Channel 4 was able to stimulate the market elsewhere across the UK. The security of supply provided by S4C through its commissions in Wales, has in turn enabled a number of independent companies to grow to become programme suppliers to the UK networks as well as the domestic market in Wales. More

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<sup>2</sup> Broadcast Indie Survey, 16 March 2018.

recently, the Channel 4's 'Out Of England' quota and the network supply quotas relating to Wales in the BBC's Operating Licence are also having a positive impact.

Over the past decade, the Welsh Government has intervened to help support and develop Wales' creative industries including the Film and TV Sector. In evidence given to the National Assembly's Culture Welsh Language and Communications Committee<sup>3</sup> Pact noted that, "*As the UK moves towards Brexit and government funding becomes scarcer, the allocation and effective targeting of Welsh Government funding to support the screen sector in Wales becomes even more important. Many companies have benefitted from Welsh Government funding over recent years yet there is an opportunity to provide support to the production sector in Wales beyond major TV and film, through a more strategic approach.*"

Examples of Welsh Government interventions include the Welsh Media Investment Budget, support from Wales Screen, the investment in a Pinewood Studios base in Cardiff, the Digital Development Fund (supporting to smaller, newer companies) and the £400,000 Welsh Government/Sky Vision Fund to support new factual and entertainment production in Wales. The Welsh Government's Media Investment Budget (MIB) has an annual reserve of £30 million, and can provide funding for productions that incur at least 50% of their principal photography within Wales. The MIB can be stacked with the UK high-end TV tax relief, which offers a 25% rebate to programmes with an expenditure of at least £1 million per broadcast hour<sup>4</sup>.

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

Some anecdotal evidence suggests that the move may have assisted independent companies based in north Wales in the sourcing network commissions from the BBC. But the impact of the move appears to have been limited. As noted previously, there has been a specific impact to the production ecology of south Wales, following the locating of the BBC's Drama Village in Cardiff Bay.

## **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?**

Research by PACT suggests that a significant proportion of independent companies in Wales specialize in factual production so the impact of the BBC Drama Village in Roath Lock on the independent sector may be limited. According to Pact data, (although now somewhat out of date), 43% of independent companies in Wales are producers of factual programming and documentaries<sup>5</sup>. However, the BBC's investment has undoubtedly benefitted the freelance market in south Wales (and in the west of England), with productions such as Casualty, Holby City, Dr Who and the S4C daily Welsh language soap, Pobol y Cwm, produced at this site.

But according to the Broadcast Indie Survey, while BBC and Channel 4 work with a variety of independent producers, ITV delivers most of its MOL spend through in-house production centres in the north of England, for example, for its main drama soaps, Coronation St and Emmerdale. In this context, it is worth noting that until recently, ITV Wales had very little success in supplying programmes to the ITV network.

<sup>3</sup> <http://senedd.assembly.wales/documents/s74141/FILMTV13%20-%20Pact.html?CT=2>,

<sup>4</sup> <http://www.thelocationguide.com/2017/03/bbcnetflix-show-requiem-now-filming-on-location-in-wales/>

<sup>5</sup> UK Production Supply in the Nations and Regions, PACT, July 2010

#### **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?**

The Broadcast Indie Survey<sup>6</sup> notes the trend towards consolidation and absorption into ownership by UK broadcasters, with the consequence, as noted in the Survey that in 2017, that only 50% of regional programming revenues were qualifying, compared with the 2014 survey in which all of the of indies surveyed were qualifying. This trend has also been reflected in Wales to some extent. Boom Productions ceasing to be a qualifying independent, following a merger with Two Four Productions and a subsequent acquisition of the group by ITV Plc<sup>7</sup> in 2015. However, as the independent sector consolidates the survey suggests that the larger groups see having a presence outside London as a key part of their business strategies, with for example, the opening of Endemol Shine North in Manchester.

#### **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, and if not why not?**

For a production to qualify as a made outside London production, only two of the three criteria currently have to be met. According to Cat Lewis, producer with the Salford based production company, Nine Lives Media and a member of the Indie Club<sup>8</sup>, very few production companies have invested in production offices outside London as their productions can still qualify as made outside London by fulfilling the budget and off-screen talent criteria. We agree with the Indie Club's suggestion that in order to be effective, all three of the current criteria should need to be met by a production and in this way, substantive bases in the nations and regions would always be required. However, data from Ofcom's latest MOL register shows that in Wales, almost all the network programme suppliers had a substantive base. Nevertheless, we believe that the criterion would be strengthened if it required producers to demonstrate that a substantive base had existed 18 months prior to commissioning.

#### **Questions about the off-screen talent criterion**

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

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

Currently, there is a risk that, with the off-screen criterion set to 50%, senior production staff could still be based in London, with only freelancers and temporary staff working on a production location, undermining the sustainability of production outside the capital. In terms of developing indigenous talent, in addition to in-house training, broadcasters and producers in Wales have been working with Sgil Cymru to provide Level 3 and Level 4 apprenticeships across a broad range of skills and the company has trained over 100 apprentices<sup>9</sup> by working with companies across south Wales including [BBC Cymru Wales](#), [Equinox Communications](#), [Golley Slater](#), [ITV Cymru Wales](#), [Real SFX](#), [Amplified Business Content](#) and [S4C](#). The apprenticeship model offers the advantage of being able to adapt directly to the production needs of the industry, although we note that the majority will be new entrants working in junior roles. In addition, Sgil Cymru also delivers a range of training courses for

<sup>6</sup> Broadcast Indie Survey, 16 March 2018

<sup>7</sup> <https://itvstudios.com/studios/uk/news/itv-acquires-twofour-group>

<sup>8</sup> The Indie Club, May 2018

<sup>9</sup> <http://www.sgilcymru.com/en/about-sgil-cymru/>

professionals already working in the industry. However, we do not have access to data which shows the proportion of senior executives working on network productions in Wales.

#### **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?**

Recent Pact data shows that productions in the London area accounted for 66 per cent of UK primary commissioning spend, a five per cent increase since the 2016 Pact Census. Full-time direct employment by UK producers outside of London stood at 35 per cent in 2017, a two per cent decline on the previous year, with 63 per cent of production budgets spent inside London<sup>10</sup>.

The creation of the BBC Drama Village in Roath Lock, Cardiff bay was followed by a 'lift and shift' move of key network drama series to the new centre. However this wasn't always out of London. For example, the medical soap drama Casualty was previously produced in Bristol, but was subsequently re-located to Cardiff Bay. However, this strategy, to create a centre of excellence for drama, has brought benefits to the local production market in south Wales, particularly in creating a sustainable base for freelancers. According to Steve Blandford, (Emeritus Professor, Theatre Film and Television, University of South Wales) in evidence given to the National Assembly's recent inquiry into Film and High End TV Production in Wales, *"I am among those who think that the establishment of a major TV production Centre at Roath Lock has been a major boost not only for the Welsh television industry but for Welsh life. It creates the kind of confidence that has an impact well beyond the creative industries. However, it is undeniable that it has not, as yet, managed to also offer the space for the creation of Welsh-originated stories that explore life in contemporary Wales"*<sup>11</sup>.

#### **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.**

The drama series Un Bore Mercher/Keeping Faith was a co-commission by S4C and BBC Wales and produced by Vox Pictures (back to back in both Welsh and English). The series is BBC Wales' most successful non-network drama in over 20 years<sup>12</sup>, attracting audiences of more than 300,000 on television and around 9 million iPlayer downloads. According to BBC News, a second series is in development, but has not yet been commissioned and the BBC has yet to confirm if the drama will be shown on network TV across the UK.

<sup>10</sup> UK Television Production Survey, September 2017, Oliver & Ohlbaum Associates Ltd for Pact

<sup>11</sup> <http://senedd.assembly.wales/documents/s74119/FILMTV08%20-%20Professor%20Steve%20Blandford.pdf>

<sup>12</sup> <http://www.bbc.co.uk/news/uk-wales-44021419>

However, the six-part drama series, *Requiem*, also filmed in various locations in Wales, was commissioned for the BBC network and Netflix, with support from the Welsh Government, with a 'box set' of all the episodes released at the same time on BBC iPlayer. While the series offered some limited element of portrayal, in terms of Wales on the network, in our evidence to Ofcom's Thematic Review of Representation and Portrayal on the BBC, we noted that *Requiem's* story line had no particular connection with the drama's main geographic location in Dolgellau, north Wales, nor its largely Welsh speaking local culture. Research by the University of South Wales has demonstrated that inauthentic uses of language are often poorly received by audiences in the regions and nations<sup>13</sup>.

#### **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?**

The ACW is not aware of any particular issues concerning the guidance and the criteria as applied to programmes made specifically for viewers in Wales. Currently a very large proportion of ITV Wales' programmes are produced in-house from its production bases in Wales. BBC Wales commissions a greater range of independent companies, but the broadcaster has faced significant cuts to its non-news spend following the Delivering Quality First initiative back in 2011, which resulted in a drastic reduction in programme output for some genres, particularly drama and the arts. More recently BBC Wales has received an £8.5 million funding boost to support the production of new drama, comedy and entertainment programmes<sup>14</sup>.

#### **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?**

The register provides a useful picture of the programmes/series supplied by each macro-region or nation, including Wales. However, in the interest of transparency, it would be very helpful if the register provided greater detail in relation to location, hours of output and spend. It is interesting to note that, on the latest register for 2016, all of the network programming supplied from Wales (except one production) fulfilled the substantive base criterion with the use of off-screen talent being the other most frequently listed criterion. It would also be useful if the register identified the source of a production's IP, which is central to revenue streams and to the objective of supporting the creative economy.

The register also reveals the dominance of London in the UK network production market as according to Ofcom data, around one third of London based independent companies are also

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<sup>13</sup> Screening the Nation: Landmark Television in Wales, BBC Trust 2010:

<http://culture.research.southwales.ac.uk/screeningthenation/>

<sup>14</sup> <http://www.bbc.co.uk/news/uk-wales-39040455>

supplying regional productions. It would be valuable to have greater detail provided about this trend available on the register.

**ACW**

**May 2018**