

Question	Your response
<p>Introductory Comments</p>	<p><i>'The Advisory Committee for Scotland advises Ofcom about the interests and opinions, in relation to communications matters, of persons living in Scotland.'</i>¹</p> <p>This response from the ACS to the call for evidence on <i>Small Screen: Big Debate - Public Service Broadcasters and the UK Production Sector</i> draws on the knowledge and expertise of ACS members, and is informed by our individual experience and through discussion at our meetings. It does not represent the views of Ofcom or its staff.</p> <p>Feedback is provided against the questions posed where we feel we can offer a relevant and informed opinion with a specific focus on Scotland.</p>
<p>Question 1: Given changes to audience consumption patterns and wider market developments, is there any aspect of Ofcom's Guidance on commissioning of independent productions which Ofcom should update to ensure it remains fit-for-purpose?</p>	<p>The guiding principle behind Ofcom's guidance must be to avoid the centralisation of power; London centric bias within the broadcasters does a disservice to audiences and consumers in the Nations and Regions. It is difficult for producers and broadcasters to reflect local communities if they are not part of them.</p> <p>Commissioning power is not currently devolved and we have seen through the pandemic the risks of this. To achieve true representation for the Nations and Regions, further consideration should be given to avoid centralisation of power and investment. To ensure a better understanding of societal and geographical diversity, which is then reflected in the content produced, it is critical that independent productions are commissioned locally.</p> <p>Commissioners and budgets should therefore be devolved across the country and truly reflect nations and regions.</p>

¹ <http://www.ofcom.org.uk/about/how-ofcom-is-run/committees/scotland/>

Currently most broadcasting jobs are based in London yet 80% of the population live elsewhere. Although Scotland is almost 10% of the population, this is not reflected in the number of network commissioners based in Scotland. There is growing unease amongst stakeholders in Scotland about this situation and Ofcom should consider whether this continues to be acceptable. As other sectors work towards lessening London centric bias, in its role as the sector regulator, Ofcom should endeavour to work with the broadcasters to make sure that redistribution of power and budget continues to happen. Maintaining quotas for independent production in the Nations and Regions is the tool to deliver this critical production spread.

We note in the recent response from Northern Ireland Advisory Committee to Ofcom's Plan of Work, fears from the independent sector in NI that investment and power has begun to revert to London. This is a worrying trend. Only by avoiding centralisation of presence and investment will true diversity and equality be delivered.

Whilst we recognise that the work on *Made Outside London* has significantly improved the situation, we feel it is still prudent to highlight that it is difficult to understand and reflect communities if you are not based at their heart.

ACS regards the allocation of licence fee revenue crucial to this debate where the current revenue from Scotland does not equal the spend in Scotland; allocating the licence fee more fairly would enable a stronger production sector in Scotland.

There is significant support across many stakeholders in Scotland for this approach and therefore Ofcom needs to give this serious consideration. Currently, the BBC spend in both Wales and Northern Ireland is greater than each respective income whilst spend in Scotland has dropped. This has a direct impact on consumer choice within Scotland and is likely contributing to the fact that Scottish audiences are less satisfied with their representation on screen than anywhere else in the country.

	<p>As the consumption of this local content increasingly moves online, it is also key that Ofcom considers ensuring that the terms of trade for online is given parity with terms of trade for linear commissions.</p>
<p>Question 2: Is there any change to the independent production quota which Ofcom should recommend to Government as part of its 'Small Screen Big Debate' programme?</p>	<p>Increasing the BBC network spend and hours out of London would support a stronger independent production sector across the UK. The London population is a fifth of the UK but it currently enjoys half of all network production. Production will follow the budgets so by forcing production out of London this will energise the growth of the production sector across the country.</p> <p>Ultimately, the benefits of PSB need to be shared fairly across the country and effective quotas enable this to happen.</p> <p>New production infrastructures in individual Nations are fragile. C4 has a voluntary 50% Nations and Regions quota so consideration should be given as to whether this should be mandatory or indeed increase. It should be noted however that this quota is not broken down which enables movement of quota production between Nations and Regions; should this be split between Nations and Regions as per the BBC.</p> <p>Production infrastructures in individual Nations are also fragile and their sustainability is a threat to their development. Only a strong local production base will be able to deliver the diverse and range of quality that local consumers want. Ofcom should therefore consider changes to help deliver that sustainability.</p> <p>Neither Channel 5 or ITV, both of whom have a UK footprint for much of their output, have any obligation to commission against geographic quota and therefore no obligation to reflect Nations and Regions on screen. Having network production being made in the Nations and Regions would assist greatly in a more diverse representation of the country as a whole. Introducing a network production quota in the Nations and Regions for these two broadcasters, would ensure a level of network commissioning from Scotland and would allow Scottish consumers to see themselves on a UK screen.</p>

	<p>STV has an independent quota of 25% which is currently delivered through ITV network content. Other quotas are for news and current affairs and are delivered in house. However, it has an obligation to deliver 39 hours of non news. This highlights the question of whether the 25% independent quota should therefore be applied against the 39 hours.</p> <p>Local production is categorised by small budgets. As part of this Committee's response to Ofcom's consultation on the future of PSM, we recommend budget investment should be part of the framework of obligations placed upon the PSBs. We take the opportunity to reiterate that view in this call for evidence.</p> <p>Small budgets often translate into small commissions, very often comprising one off documentaries with no on sale value. This makes it challenging for the newer and smaller producers to build a sustainable business. Ofcom should consider how to encourage commissioners to collaborate more closely with local producers to develop slates of commissions or returning series.</p>
<p>Question 3: Do you have any recommendations for potential changes to the definitions of 'qualifying programmes' or 'independent production' which Ofcom should recommend to Government as part of its 'Small Screen Big Debate' programme?</p>	<p>Independent production relies on the definition of an independent producer and we now believe that Ofcom should question whether the definition of 'independent producer' is still fit for purpose.</p> <p>Ofcom's definition is as follows: The Broadcasting (Independent Productions) Order 1991 (as amended) states that an independent producer is: (i) not employed by a broadcaster; (ii) does not have a shareholding greater than 25% in a UK broadcaster; or (iii) in which no single UK broadcaster has a shareholding greater than 25% or any two or more UK broadcasters have an aggregate shareholding greater than 50%.</p> <p>The drive behind the Order was to incentivise the growth of a vibrant production sector, delivering innovative ideas to the broadcasters. However, as a result of consolidation in the sector, a number of those deemed independent producers are now bigger than some of the broadcasters they serve. 7% of independent producers in the UK have a turnover of more</p>

	<p>than £70m (Oliver and Ohlbaum PACT Financial Census 2020).</p> <p>All3Media was the biggest consolidator in UK revenue terms, with a turnover of £520m. Nine of the top 10 independent labels are owned by larger groups, while a total of 69 out of 143 companies are more than 50% owned by a consolidator (Broadcast Indie Survey 2020).</p> <p>It is prudent therefore to consider asking whether the sheer size of these companies now bring into question their qualification as independent producers. We believe this is worthy of further discussion and investigation.</p> <p>The definition of an independent producer attempted to deal with the advantages that a producer may have if connected to a broadcaster. We now believe there should be consideration given to the benefits that a producer has when part of these bigger consolidated entities.</p>
<p>Additional Comments</p>	<p>The UK independent production sector is a global success story delivering huge economic benefit to the UK economy. This economic success flows into all parts of the country, driven by the rules and obligations placed on the PSBs over the years. Rules on external commissioning, IP rights and regional quotas have played a vital role in the emergence and development of the independent TV production sector in the Nations and Region of the UK.</p> <p>In 2019 primary commissions from the PSBs generated over £1bn of revenue for producers in the Nations and Regions (Oliver and Ohlbaum UK TV Production Survey 2020) which equated to 51% of the total external PSB commissioning.</p> <p>The PSBs are critical to Scotland's creative economy as they are the main commissioners of content from Scotland's production companies.</p> <p>Scotland has developed a successful independent production sector off the back of this regulation driven commissioning, particularly from the BBC and C4. Whilst commissions from multi channels and international broadcasters are growing, these two PSBs remain critical to Scotland's creative economy and are key to its success and future growth.</p>

They are also at the heart of the development of the creative hubs across Scotland, allowing businesses and ideas to grow and develop within local communities. The BBC, STV and C4 have an important physical presence throughout Scotland often helping to sustain local services. Importantly, being part of these communities allows them to develop local content which reflects local lives, giving them a voice and delivering true representation on air and online.

The development, success and future framework for PSB is therefore symbiotically linked with the development and success of the independent production sector.

Being so reliant on two key commissioners makes the sector fragile and open to dynamic swings in fortunes. As broadcasters endeavoured to cope with the financial impact of the pandemic, this inevitably flowed through to the production sector resulting in reduced budgets and cancelled commissions.

It is therefore extremely important that Ofcom's guidance and regulation around the independent sector is fit for purpose, helping to deliver the resilience and stability that it needs to grow and develop.

We therefore welcome the opportunity to contribute to this call for evidence, in a desire to achieve the best outcomes for Scottish consumers, ensuring that they continue to have diverse and high quality content made in, and for, their Nation.