Submission to Ofcom consultation on the proposals for the new Channel 4 licence

pact.

February 2024

Introduction

1. Pact is the UK trade association which represents and promotes the commercial interests of independent feature film, television, digital, children's and animation media companies.

2. The UK independent television sector is one of the biggest in the world with sector revenues growing to just under £4 billion in 2022.[1]

3. Pact works on behalf of its members to ensure the best legal, regulatory, and economic environment for growth in the sector. Pact has around 800 member companies across the UK and the majority of these are SMEs (small and medium sized enterprises) with a turnover of less than £50m a year.

4. Pact recognises the important role that Channel 4 plays in the UK television marketplace as a publicly owned public service broadcaster, with a unique remit to promote diversity and innovation both on and off screen – it plays a very important role in the British broadcasting ecology. The health of the UK TV production sector is closely interlinked with that of Channel 4.

5. For further information, please contact Pact's Director of Policy, Emily Oyama at emily@pact.co.uk or on 0207 3808232 and/or Pact's Senior Policy Executive, Susie Heron Halliday, at susie@pact.co.uk or on 020 7380 8236

[1] Pact Census 2023

Overview

1.1 C4C plays an important role in the UK television marketplace as a publicly owned public service broadcaster, with a unique remit to promote diversity and innovation both on and off screen. As Ofcom will understand Pact has spent a considerable amount of time and effort to minimise the impact of the Governments' recent decision to remove C4C's publisher broadcaster status – which is now currently going through parliament. The health of the UK TV production sector is closely interlinked with that of C4C and we have worked hard with the Government to ensure mitigation proposals will limit the potential damage done to the sector.

1.2 The discussions with Government have culminated in mitigation proposals including an increase to the C4C indie quota to 35% and key regulatory structures put in place to ensure fair competition if C4C decide to set up an in-house production. These went short of our original proposals which included a cap on in-house production, ensuring the 50% nations and regions' commitments via statutory legislation and statutory specific nations quotas as per the BBC's requirements. Given this, Pact continues to be concerned about C4C's new capacity to produce its own programmes and that this could have a substantial detrimental impact on the production sector across the UK, and the wider creative economy particularly in the Nations and Regions (N&R). It is with this in mind that we approach our answers to this consultation.

1.3 Pact disagrees with Ofcom's proposal to retain the current levels of Nations and Regions' quotas. The Media Bill will give Channel 4 the ability to move into production for the first time. Writing Channel 4's 50% commitment into its licence and mirroring the BBC's nations commitments would be a way to mitigate the impact of Channel 4 moving into production and any potential reduction in the content budget on N&R indies. It will also offer certainty to the market which as Ofcom has identified is already feeling the effects of a sector wide downturn.

1.4 Pact also challenges Ofcom's assertion that there is not sufficient capacity in the nations to respond to increased demand. We commissioned Oliver & Ohlbaum Associates (O&O) to interrogate the analysis and it found that, by using some additional assumptions and estimates that are not publicly available, Ofcom's estimates for the increased financial burden could not be relied upon and that Ofcom is not comparing like for like between commissioning in the nations and English regions. We are also sharing O&O's full report with Ofcom for further detail.

1.5 Ofcom's assertions that funding to develop indies will better equip the sector is shortsighted and fails to acknowledge that there are already several initiatives in place to build up the regional production sector, for example the work NE Screen and Create Central are doing. And in the nations C4C already has a number of partnerships with the respective Screen Agencies. Schemes such as these are a way to help build up the local production sector so there is increased capacity to help meet demand. While new funds are always welcome, the way to grow and future proof the regional sector is commissions, particularly long running returning series. We question how C4C has been meeting the quotas in the nations and regions and whether the kind of content it has been commissioning to meet the quota enables the supply base the chance to ensure it is sustainable in the future.

Question 1: Do you agree with our assessment of the potential impact on specific groups of persons?

2.1 Pact agrees that an ability for C4C to flex its schedule in order to meet younger audiences' expectations is necessary given its overarching mission and remit as a PSB and we accept that there is a need to maintain the news offering given the research showing that it resonates with minority ethnic groups. However, Pact considers that Ofcom's proposals to maintain the status quo on nations and regions quotas to deliver content on Channel 4 does not acknowledge the impact it will have on production companies particularly within the nations and regions.

2.2 The removal of the publisher broadcaster status will be a significant change to the UK production sector and Pact has made the case for several mitigation proposals to ensure these proposals have a minimum impact on the UK production sector and the creative economy in general. For Ofcom to maintain the status quo on the nations and regions quotas to their current levels in particular adds further uncertainty to an already challenging market for UK production companies. Pact continues to consider that the 50% Made out of London quota needs to be written into the licence as well as increased Made out of England quota equivalent to the BBC nations quotas. Furthermore, as soon as the Media Bill receives Royal Assent an immediate reassessment of all C4C relicense proposals will be necessary.

Question 3: Do you agree with our proposed approach to setting the new Channel 4 licence?

3.1 Pact in principle agrees to the premise of allowing C4C flex to transition to a digital first model and are happy that Ofcom recognise that there needs to be a gradual and managed transition especially for the market to adapt to a new business model. But we disagree with the need to maintain the status quo on nations and regions' quotas. With the Government confirming that it will remove the publisher broadcaster status, this means it will allow Channel 4 the opportunity to go into production for the first time. The removal of the publisher broadcaster restrictions will potentially have an impact on smaller qualifying indies who are more likely to be replaced by C4 Studios Ltd(TBC)[2]. Pact previously commissioned research by O&O Associates which outlines in more detail the impact of any removal. This includes:

- Organic growth of C4Studios Ltd could deprive qualified Indies of £65m of commissions over the first three years.
- Growth acquisition could see £130m loss of commissions to the qualified indie sector over the first three years.

3.2 The likelihood of the above impacts happening will become more acute if the mitigation proposals that we outlined to government are not fully and properly implemented. These include raising the independent production quota, enhanced regulatory regime for any production company set up by C4C, a cap on in house production if C4C decide to go into production and lastly an increase in the statutory nations and regions quota.

[2] Pact envisions that any wholly owned commercial subsidiary of Channel 4 will be named Channel 4 Studios Ltd and throughout the document uses this terminology to describe any production arm that Channel 4 will create

Government has listened to a number of our recommendations but one particular recommendation regarding increasing the statutory nations and regions quota has been deferred to Ofcom to make a final decision. We urge Ofcom to use this consultation process to make the necessary amends to this statutory quota to safeguard the future of the UK production sector.

News

Group Q4-6 together on news

Do you agree with our proposal to retain the condition requiring not less than 208 hours of news programmes in peak viewing time to be included in the Channel 4 service in each calendar year of the licensing period? Please provide reasons for your response, with any supporting evidence Do you agree with our proposal to remove the lunchtime news scheduling requirement? Please provide reasons for your response, with any supporting evidence. Do you agree with our proposal to retain the weekend news scheduling requirement? Please provide reasons for your response, with any supporting evidence.

3.1 Pact agrees that the current quota levels for news programmes in peak viewing times is retained and acknowledges the importance of news and current affairs as a genre given the PSB remit that Channel 4 needs to adhere to. We have no detailed comments to make on the other aspects of news scheduling.

Current Affairs

Question 7: Do you agree with our proposal to require that there are not less than 178 hours in each calendar year of the licensing period of current affairs programmes included in the Channel 4 service which are of high quality and deal with both national and international matters? Do you agree with our proposal to retain the requirement that 80 hours of the 178 hours must be in peak viewing time?

3.1 Pact acknowledges the importance of current affairs to C4C achieving their PSB remit and the need to transition to a digital first model. Although we agree with the proposal to reduce the obligations given the need to reach younger audiences, the way this is done to ensure the current supply base is not disadvantaged is key, as is a need to ensure that tariffs and rights positions are at a level that allow a project to be financially viable for a production company. When talking to production companies about this many said that it was only when producers' were able to bring third party financing through a co producer or through the option of secondary sales that a project with Channel 4 could be viable. Channel 4 will need to have key structural interventions to ensure those companies are incentivised to pivot and better supply other genres. We also note that C4C have said that reducing the number of hours will allow them to reallocate towards digital first commissions. The Media Bill would allow these programmes to count towards its quota, which would help to mitigate some of the issues Ofcom point out in their consultation.

Origination

Question 8: Do you agree with our proposal to require that: a) at least 45% of the hours of programmes included in Channel 4 in each calendar year are originally produced or commissioned for the service; and b) at least 70% of the hours of programmes in peak viewing time are originally produced or commissioned for Channel 4?

6.1 Pact agrees with the proposals but a mitigation strategy must be in place given the reductions. We are disappointed that a more thorough interrogation of the risks of this strategy have not been set out especially with regards to the creative economy. For example, a projection using different genre mixes that targeted higher tariffed productions in different regions would have helped to understand the different ways in which an increased quota could be played out. C4C and Ofcom need to be aware of how given the confirmation that C4C will be able to go into production this will have a significant impact on the UK production sector. As outlined above there is a risk that between £60-135m will be lost and given the downturn that the sector is facing this year it does not give comfort to our members.

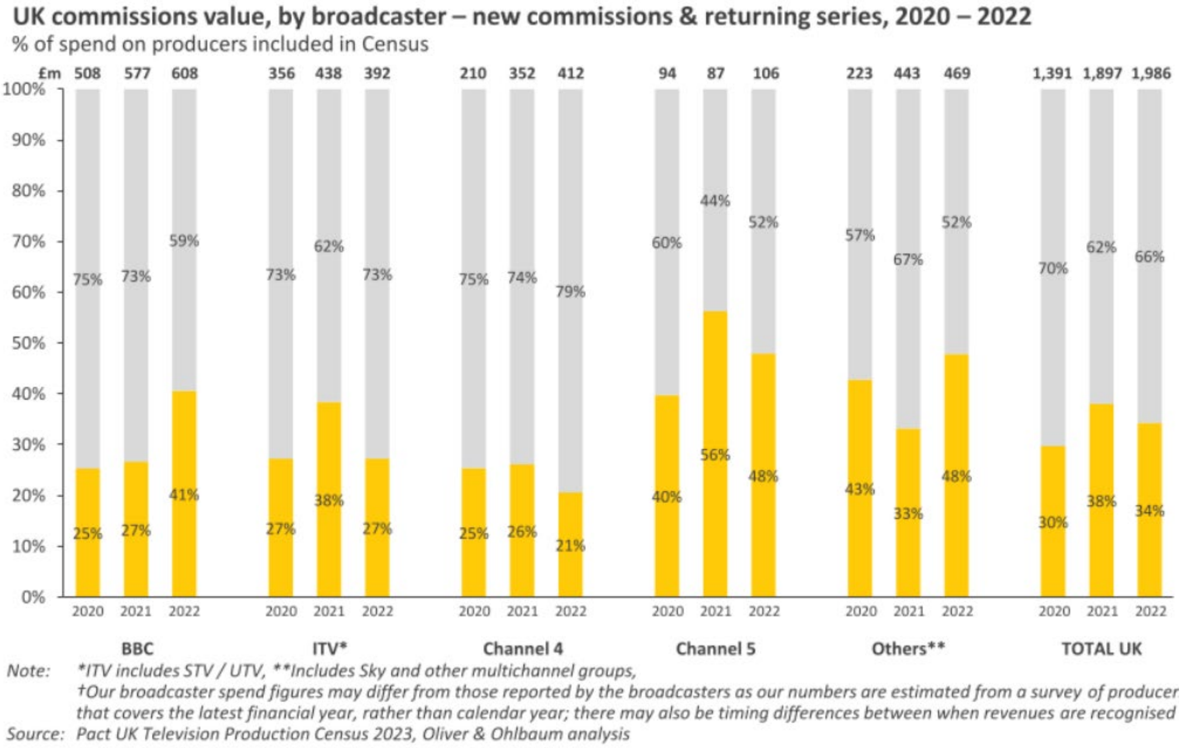
6.2 First run originations are an important part of the PSB remit and as Ofcom has outlined in its last 5 year review of PSB “original UK-made programmes remain central to fulfilling the PSB remit”[3]. It also looks to continue to be important as current drafting in the Media Bill highlights the need for appropriate original programming. First run origination is also important way of ensuring the success of the indie sector. New IP provides indies with an opportunity to further grow their business and secure a re-commission. New IP also contributes to the UK economy and helps create jobs in the wider creative industries.

6.3 **Figure 1[4]** shows that Channel 4 has consistently been the 3rd largest individual commissioner of new content spend in the UK. This has enabled generations of creative entrepreneurs and small innovative start-ups to break into the UK broadcasting market and grow their businesses, initially working for Channel 4 and then supplying other broadcasters both domestically and internationally. In 2022, Channel 4 worked with 170 independent production companies. Its risk-taking remit which breeds innovation and originality, and the creation of new IP, also provides much needed competition for the other PSBs which in turn benefits both viewers and the wider economy.

6.4 The diversity of supply and programming is key to Channel 4’s and the indie sector’s success. Ensuring that the supply base is supported in meeting a demand for different genres is important as C4C seeks to invest more in high-impact, high-tariff content that draws audiences to Channel 4 Streaming.

[3] Ofcom, Recommendations to Government on the future of public service media, July 2021, p. 19
[4] Pact Census 2023

Figure 1



Nations and Regions

Question 9: Do you agree with our proposals to retain the requirements that, in each calendar year, at least 35% of the hours of programmes made in the UK for viewing on Channel 4 must be produced outside the M25, and at least 35% of expenditure on programmes made in the UK for viewing on Channel 4 must be allocated to the production of programmes produced outside the M25 and must be referable to programme production at a range of production centres?

7.1 Pact does not agree with Ofcom's proposal to retain the 35% quota for hours and expenditure for programmes produced outside the M25. Channel 4 is a key contributor to the nations and regions, with its investment in N&R indies and their growth in the last decade alone standing at over £1.5 billion of content spend.[5] Channel 4, as highlighted in Ofcom's consultation document, have consistently overperformed on their current 35% quota, and went further than this by putting in place a voluntary commitment of 50% of hours and spend being produced outside of London. We're pleased that Channel 4 "remains entirely committed to its presence, programme-making and impact across the Nations and Regions. This includes its commitment to regional producers, voluntary investing 50% of its commissioning budget outside of London[6]." However, the Media Bill once made law will remove Channel 4's publisher-broadcaster restriction and provide it

[5] Channel 4's Impact on the UK's Competitiveness and Global Profile, O&O Associates, September 2021
[6] Statements from Channel 4 Chair Sir Ian Cheshire and CEO Alex Mahon in response to announcement made by the Department for Culture, Media & Sport on 8th November 2023

with the ability to move into production. A move into production would likely see a weakening of the content budget as C4C looks to build up its production capacity. Given that this 50% commitment is not currently written into legislation or its licence, the budget for N&R production could be reduced. Ensuring C4C's investment is maintained would help to maintain its diversity of supply and help further redistribute commissioning spend outside of London, contributing to the Government's levelling up agenda.

7.2 With the Media Bill shortly being passed, for the first time in its history, Channel 4 will be permitted to produce its own programmes. Pact is disappointed that Ofcom seem to not have considered this issue in relation to Channel 4's commitment to the N&R. To enable C4C to produce its own programmes, C4C would need to either organically grow a production capacity by winning competitive pitches, or through the acquisition of indies. It would also likely need to cancel a range of productions to free up programme slots for its own production arm. Long running returning series that have proven popular are far less likely to be cancelled to free up slots in comparison to singles or shorter run factual programmes. These types of programmes tend to be produced by smaller indies and those based in the nations and regions.

7.3 Ofcom note that given the strength of C4C's commitments outside London, and the high profile of the 4 All the UK strategy, a reduction in spend out of London would not be consistent with C4C's published plans and commitments. C4C's licence will cover a ten year period, and while the current management at C4C may be committed to the nations and regions; there is no guarantee that this will be the case under new management. Writing C4C's voluntary 50% commitment into the licence would be a way to guarantee that the broadcaster remains committed to the nations and regions, even under a change of management. O&O's analysis estimates that the voluntary 50% commitment protected £70m of MoL spend in 2022.[7] Ofcom state that if C4C were to drop their out of London spend to its 35% quota level this would have only resulted in a 6.5% drop in overall PSB qualifying spend out of London, and any small fluctuations in C4C's investment are unlikely to have a damaging impact on the wider market. Pact disagrees with Ofcom on this point. While a reduction in C4C spend may have a minor impact on overall PSB spend, it's important to note that ITV and C5 spend a relatively small amount out of London in comparison to the BBC and Channel 4. If C4C were to drop their out of London spend to the quota level, so a reduction of £70m, this would have a substantial impact on the production sector and it's unlikely that spend by the other PSBs would make up for this loss.

Production sector in the regions

7.4 As Ofcom identify in its consultation document, the majority of producers in the UK focus on unscripted productions. However, the UK's production sector is highly innovative and creative and just because a production company chooses to focus on one genre now does not mean they're unable to pivot to another genre and be successful. Little Gem produced only factual content up until the company decided to pivot genre and produce the hugely successful *Mr Bates vs the Post Office.* Producers are willing to adapt and be

[7] Channel 4 Nations and Regions Quotas, O&O, February 2024

creative in order to win commissions and while factual is still popular with viewers, if broadcasters were to shift their focus away from factual; there is no reason that the production sector couldn't adapt to meet changing demands. There are also a number of Pact film producer members who have now pivoted into TV drama due to the downturn in investment in independent film in the UK.

7.5 There are a number of already well established production hubs across the English regions in places such as Manchester and Bristol, where production has been built up around investment from broadcasters or around existing skill specialities in certain genres. For example, the BBC's move to Salford has played a key role in boosting the local creative economy and jobs, with employment in the sector in Salford growing 142% between 2010 and 2019 and the number of digital or creative businesses growing by 70%.[8] Similarly, Bristol has a developed into a hub for natural history production as a result of the BBC's natural history unit being based in the area. There are also a number of smaller production hubs, which are just beginning to form in areas such as West Midlands and the North East of England. These areas were previously thriving production hubs and there were many production companies based in those areas, however many production companies shut down due to changes in local broadcasting and shutting down regional channels by ITV and BBC at the time. However, as the PSBs look to increase their investment in building up the regional sector, many production companies are now choosing to move out of London and many new indies have been set up as a result of the work to develop the sector in the local area.

7.6 Create Central, an industry body who work in partnership with the West Midlands Combined Authority and others, and a partnership with the BBC which will increase the BBC's presence in the local area and investment levels. While the production sector is still only small, there have been a number of recent commissions and productions from the area. Common Story, based in Warwick, won their first TV commission from BBC Three. Long running series, *Silent Witness* and *Masterchef,* have also recently moved production to Birmingham to develop local skills and production capacity in the area.

[8] An assessment of the economic impact of the BBC, KPMG, March 2021

7.7 New initiatives, particularly development funding, and partnerships with screen agencies are always welcomed by the sector. However, we question whether there is a genuine need for any more of these types of activities, and some of the work that C4C highlight such as strengthening access to commissioners should already be happening given the broadcasters commitment to the nations and regions. There is work already being done by screen agencies and film offices to attract investment into their respective regions, build up skills and crew capacity. For example, Liverpool has become a hub for scripted production with many domestic and international productions filming in the area. This has largely been done without any additional investment from the PSBs and has played a vital role in attracting inward investment and drama production to the area.

The TV production sector in Liverpool

The sector in Liverpool is relatively small in size, Pact currently has around 7 members based in the area. However, the area has become an increasingly popular destination for large scale international productions and domestic scripted productions and has developed a speciality in the scripted genre.

In 2023, over 300 productions, such as *The Gathering* by World Productions for C4 and *Dead Hot* by Quay Street Productions for Amazon, filmed in the area, which boosted the local economy by £43.6m and supported 1,493 full time equivalent jobs.

Lime Pictures, based in Liverpool and other areas across the UK, is one of the largest production companies in the UK, and produce long running returning series *Hollyoaks* for Channel 4. Utilising the benefit of a large production hub in Liverpool, Lime launched its intern scheme in 2017 and has subsequently provided nine-month paid work placements (across a multitude of production roles) for over 40 people. This is in addition to over 75 shorter work placements completed each year.

The Liverpool Film Office run a number of initiatives to help build up the local skills base and most recently partnered with North East Screen, Screen Manchester, Screen Yorkshire to form Screen Alliance North. In April 2023, Screen Alliance North were awarded £2.3m of BFI National Lottery Funding to tackle skills shortages and improve access to quality training provision for diverse talent and communities.

The Film Office also manage the Liverpool City Region Production Fund, which has been created to help drive the further growth of the regions film and TV sector. It's open to qualifying local, national and international production companies, the Fund can support the production of feature films, TV drama, animation and scripted comedy series, with investments of up to £500,000 per project.

7.8 Liverpool is one example of an area which has been seeking to future proof the sector and build up capacity to meet the demand for high quality British production through its own local funds and initiatives. Any additional investment from the PSBs are always welcomed however, producers need commissions in order to scale up their businesses, invest in training and skills and the R&D of new ideas. PSB commissions also play a particularly important role as producers retain the IP through the Terms of Trade, which means producers are able to further monetise this IP in the secondary market, and attract third party funding for expansion and investment.

Sustainability of C4

7.9 Both Ofcom and Channel 4 state that an increased quota for regional production could reduce C4C's operational flexibility to respond to changes in the production market and economic uncertainty. The Media Bill will also put in place a statutory duty on Channel 4 to ensure its long term sustainability. Pact agrees that it's important that all the PSBs have the necessary flexibility to respond to economic uncertainty and any market changes. However, we disagree that enshrining Channel 4's voluntary commitment of 50% into its licence will reduce its capacity to respond to any changes. In response to the COVID pandemic and the production shutdown in 2020, Channel 4 put in place a number of measures including a reduction in its content budget and drawing down on its commercial £75m revolving credit facility.[9] Channel 4 responded quickly to the unprecedented downturn in the advertising market and global pandemic whilst also maintaining its support for indies with continued commissioning and ringfenced spend and development funds for small, N&R and BAME-led indies. In 2020, Channel 4 exceeded its nations and regions quota with 47% of spend on first-run originations coming from the nations and regions, and 58% of first-run programme hours from the nations regions.[10] Similarly in 2021, which was also impacted by COVID, Channel 4 well exceed its quota with 55% of spend coming from the nations and regions and 66% of hours.[11] Channel 4's response to the pandemic and the fact it exceeded its statutory quota, and met its voluntary quota two years ahead of schedule during COVID, shows that Channel 4 do have the flexibility needed to respond to any unforeseen economic or market changes.

7.10 The Media Bill will also give Channel 4 the flexibility to deliver on its PSM remit and quotas through a range of audiovisual services, including both linear channels and streaming services. While this consultation is based on the existing licence and does not factor in any of the changes in the Media Bill, we are disappointed that Ofcom does not acknowledge that these changes will give Channel 4 the increased flexibility it needs to adapt to the future and fulfil its quotas via digital and secondary channels. Some of Channel 4's quotas still seem to be tied to linear, for example the peak originations quotas, however the regional quotas could be delivered via online services and secondary linear channels such as More4 and E4. This would be the first time that Channel 4, and the other PSBs, would have the flexibility in deciding how to meet its obligations. Pact believes that the changes in the Bill will further increase Channel 4's operational and financial flexibility to respond to any changes.

Sustainability of the production sector

7.11 Pact welcomes Channel 4's over delivery of its nations and regions quota and its long standing commitment to help grow the production sector outside of London. We agree with Ofcom that any reduction in this commitment would not be consistent with Channel

[9] https://www.channel4.com/press/news/channel-4-sets-out-financial-plan-navigate-organisation-through-impact-covid-19-crisis
[10] Channel 4 Annual Report 2020
[11] Channel 4 Annual Report 2021

4's actions to date, however the renewed licence covers a 10 year period. The current leadership at Channel 4 seem to be committed to the nations and regions, this may not be the case for any new leadership that may be put in place over the next 10 years. We also note that it's likely that over this licence period, Channel 4 could move into production. As we have stated above, we are concerned that any potential move to in-house production would impact the content budget and commissioning, particularly for indies outside of London. Ensuring that Channel 4's voluntary commitment of 50% is written into the new licence would help to future proof the regional indie sector against any change in leadership, change in policy priorities and Channel 4 in-house production.

7.12 The sustainability of the production sector is also important for the health of the UK's wider broadcasting ecology. A strong indie production sector also plays a role in the Channel 4's overall sustainability. For example, third party funding is increasingly being used to finance PSB programmes, which the PSBs may not usually be able to afford alone. Third party funding could include: deficit financing (secondary sales both UK and International and merchandise), co-production financing, and tax reliefs. For example, *The End of the F***ing World*, a Channel 4 and Netflix co-production, remains the best performing original All 4 exclusive ever.[12] Indies play a role in bridging the gap in finance needed for productions. By providing finance and taking on a greater share of the risk from broadcasters it reduces the cost of the primary licences to UK broadcasters. This willingness of independent producers to take more of the financial burden is not restricted to the large indies. Analysis of smaller indies in the UK suggests that on average they spend 4.5 per cent of their revenue on R&D, and only earn margins on UK production activity of around 2 per cent.[13]

7.13 Ofcom also state that the 'forecasted slowing of growth across the UK production sector could create uncertainty for C4C in an already complex production market outside of London'. The production sector has largely recovered from the pandemic, with total sector revenues returning to growth levels seen before the pandemic, increasing by 21.3% on 2021.[14] However there are always going to be fluctuations in the market with current signs of a commissioning slowdown largely linked to the downturn in the advertising market,. We note that C4C along with other broadcasters are shifting their strategies to increase the growth of digital revenue and changing their commissioning strategies in response to changes in the market and viewing habits. The low barriers to entry and highly competitive nature of the UK's sector means that many companies do regularly fail. That said, these low barriers to entry also mean that for every company that shuts down, there will likely be another creative entrepreneur with new ideas, skills and experience looking to start up and compete for commissions.

[12] https://www.channel4.com/press/news/end-fing-world-fking-back-channel-4-november
[13] Oliver & Ohlbaum, Call for Evidence PSBs and UK production sector, 2020
[14] Pact Census 2023

Question 10: Do you agree with our proposals to retain the requirements that, in each calendar year, at least 9% of the hours of programmes made in the UK for viewing on Channel 4 are produced outside England, and in each calendar year at least 9% of its expenditure on programmes made in the UK for viewing on Channel 4 is allocated to the production of programmes outside England and referable to programme production at production centres in Scotland, Wales and Northern Ireland?

8.1 Pact disagrees with Ofcom's proposal to retain the 9% hours and expenditure quota for programmes made outside of England. While we understand the need for Channel 4 to have flexibility to deal with financial challenges and any future changes in the market, the consultation document fails to take into account that, as part of the provisions in the Media Bill:

- Channel 4's publisher-broadcaster status will be removed and C4C will be allowed to move into production for the first time in its history.
- The new modernised PSM framework will allow programmes commissioned for Channel 4's secondary channels (More4, E4) and its online streaming services to count towards the fulfilment of its nations and regions quotas.

8.2 The changes in the Media Bill represent a huge shift in how the PSBs will deliver content to viewers and how they fulfil their PSM remit and quota requirements. For Channel 4, the ability to move into production and own IP for the first time represents a huge opportunity for them to diversify their revenue. It has taken ITV Studios and BBC Studios some time to build up its catalogue of IP and increase its revenues however, they are by far the largest production entities in the market with ITV Studios revenue reaching £1bn in 2023[15] and BBC Studios reaching £2bn in sales in 2023.[16] The Government have put in place a number of measures to help mitigate the impact of Channel 4's potential move into production on the independent production sector. However, we remain concerned about the impact this would have on the indie sector, particularly in the nations and regions, and the impact a potential reduction investment would have on the continued development of the sector in the nations particularly. As Ofcom set out, *'C4C's investment in the Nations and Regions is a crucial part of supporting the development of local production and commissioning.'*[17] We don't believe that retaining the quota at its current level will help to mitigate the impact of Channel 4's own production arm nor will it support the continued development of local production and commissioning.

8.3 C4C have said that 'many of the genres and types of programming typically produced in the nations are better suited to More4 and E4.'[18] While C4C have said they will be focusing on high impact, high tariff content that draws in audiences to C4 streaming, commissions for its linear channels like More4 and E4 will likely still play an important role for the majority of the licence period. More4 already has a number of commissions from nations based companies, including long running series, *A Farmers Life,* produced by Strident Media based in Northern Ireland. Pact understands the need for C4C to retain some commercial flexibility and allowing content commissioned for its other qualifying

[15] ITV interim results for period ended 30 June 2023, July 2023
[16] https://www.bbc.co.uk/mediacentre/bbcstudios/2023/bbc-studios-hits-two-billion-in-sales/
[17] Letter to Channel 4 Corporation on its Statement of Media Content Policy 2022, Ofcom, July 2023
[18] Channel 4 Licence Renewal consultation, December 2023

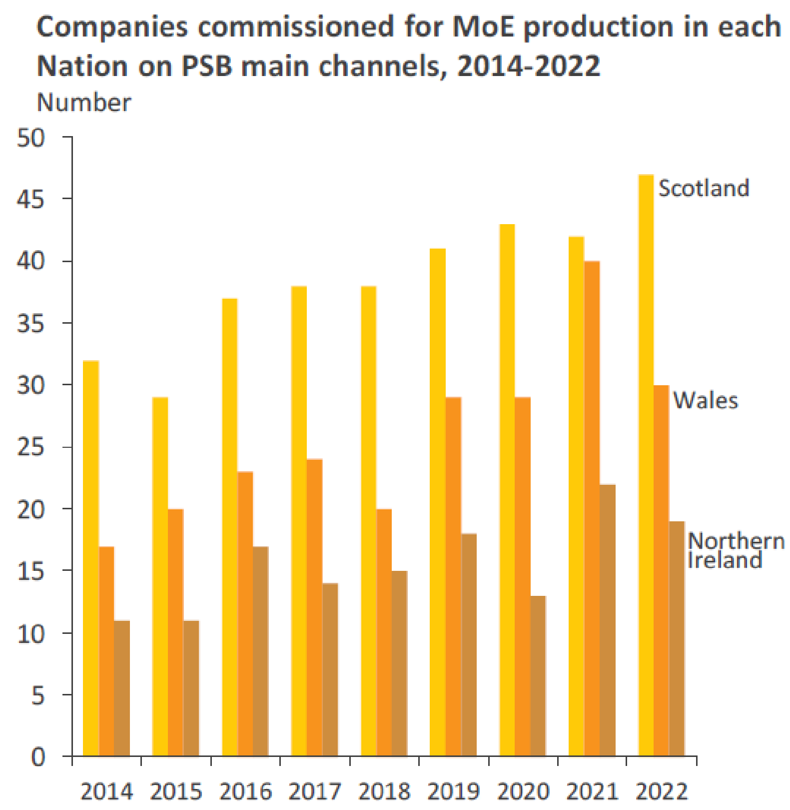
audiovisual services to count towards its MoE quota would help to mitigate some of the issues Ofcom outline in the consultation document.

8.4 Pact is proposing that Channel 4's MoE quota be increased with separate nations quotas for Scotland, Northern Ireland and Wales introduced in line with the BBC's commitments. We disagree with a number of Ofcom, and C4C's, points regarding production in the nations. Which we outline below.

Ofcom's assumptions about production in the Nations

8.5 C4C cited potential challenges in the growth of the production sector in the nations and regions as a risk factor in its delivery of the quotas. The sector in the nations is smaller than in London however, the production sector in London has had decades to develop. Pact commissioned O&O Associates to look at commissioning in the Nations. **Figure 2**[19] from O&O's analysis shows that the number of labels producing in the nations has increased for the most part increased over time.

Figure 2



8.6 While all the nations have had the occasional decline in the number of companies commissioned in some years, O&O's analysis shows that this then tends to recover the following year and often increases. Which indicates that there is a steady supply of active production companies in Scotland, Wales, and Northern Ireland, and that actually the

[19] Channel 4 Nations and Regions Quotas, O&O, February 2024

number of production companies gaining commissions seems to be increasing year on year.

8.7 Pact also questions C4C's assertion that companies outside of London have "less capacity to develop creative ideas and produce them, in comparison with London."[20] While larger companies do often have the resources to invest in more R&D than smaller companies and start-ups, producers are innovative and will find ways to source additional funding for development and deliver productions. For example, Raise the Roof productions, based in Glasgow, were able to supply four network series to C4 in the first year of start-up. There are also a number of medium to large companies based in the nations who produce large scale productions, such as Bad Wolf in Cardiff who produce *His Dark Materials* for the BBC and HBO and Synchronicity Films based in Glasgow, who are currently producing *The Tattooist of Auschwitz* for Peacock and Sky.

8.8 There are a large amount of companies in the nations who focus on factual and other unscripted genres. However, we question Ofcom's point regarding a potential gradual shift towards fewer, more expensive productions in certain genres would increase the risk of noncompliance as it would be difficult for C4C to commission an alternative from the nations at short notice. O&O's analysis found that more companies have had commissions in the nations overtime, while the average number of hours per company has decreased, suggesting that there is sufficient capacity for more production.[21]

8.9 Channel 4 state it only just meets its nations quota and they find meeting this challenging. They also state it is common for commissions to be delayed, cancelled or failed to be re-commissioned due to factors beyond its control. Delays and cancellations do happen and Pact understands that this is sometimes out of the producers or C4C's control. However, other broadcasters will likely face similar issues and we note that the BBC seems to have no issue meeting its quotas for Scotland, Wales and Northern Ireland. If C4C's nations commissions are regularly delayed or cancelled in comparison to London-based commissions, we would be concerned. However, without having access to information on the scale of this issue, it's difficult for Pact to comment. Given the BBC's ability to meet their quotas, and the fact a similar issue has not been raised by them, we query the scale of this issue and the impact it would have on C4C's ability to meet an increased quota. In fact, the BBC regularly exceeds its overall nations quota with 23% of the BBC's total qualifying hours allocated to production in the nations, and 18% of total qualifying spend in 2023.[22]

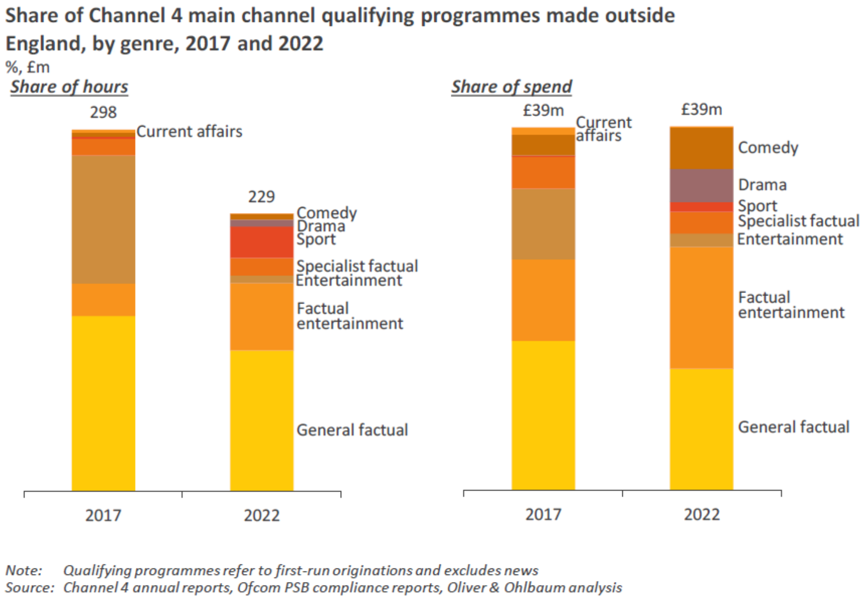
Cost of production in the Nations

8.10 We note that Ofcom outline a number of concerns around increasing the MoE quota. Namely that production in the nations is more expensive to produce in comparison to England. However, O&O's analysis found that the amount of hours produced in the nations has decreased but the topline spend is unchanged, driven by a shift towards a more expensive genre mix, including more drama and comedy. **Figure 3**[23] details the

[20] Channel 4 Licence Renewal, Ofcom, 2023, p59
[21] Channel 4 Nations and Regions Quotas, O&O, February 2024
[22] IBID
[23] IBID

share of hours and spend on Channel 4 in the nations and a genre mix comparison of 2017 and 2022. If we compare the two years, the nation's hours have reduced from 298 in 2017 to 229 in 2022 however, there has been a noticeable increase in comedy and drama from the nations in 2022; both of which are more expensive to produce than factual, which saw a decrease in 2022.

Figure 3

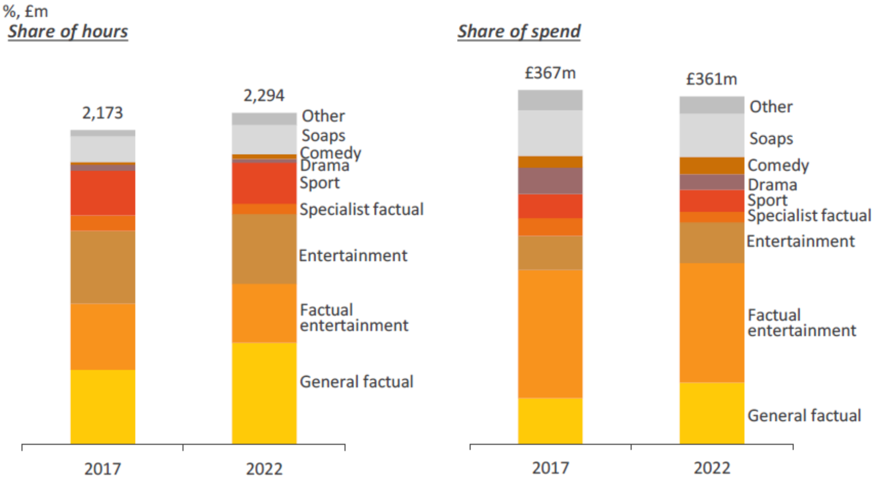


8.11 If we compare the distribution of nations hours and spend to England production, and the genre mix within them. Production in England has remained broadly the same, **Figure 4**[24] shows that the genre mix has remained largely the same over time, with a slight dip in the spend on scripted production.

[24] IBID

Figure 4

Share of Channel 4 main channel qualifying programmes made in England, by genre, 2017 and 2022



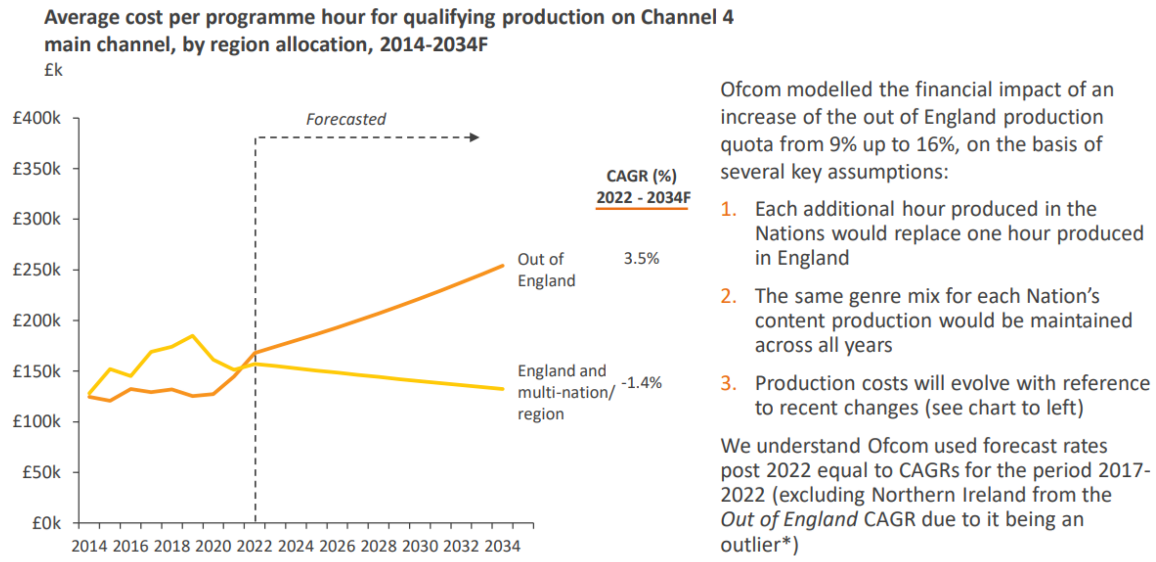
Note: Qualifying programmes refer to first-run originations and excludes news
Source: Channel 4 annual reports, Ofcom PSB compliance reports, Oliver & Ohlbaum analysis

8.12 The data from the nations and England shows that while Ofcom may be correct in saying that production in the nations has become more expensive, the increase in more costly genres in the nations seems to be the main driver behind the increased average cost per hour outside England. The cost burden is therefore based on commissioning trends and the genre mix that Channel 4 is deploying in the nations rather than spend in the nations' being inherently more expensive. Pact notes that Channel 4 has noted that part of its strategy moving forward is a 'diversified portfolio of commissioning' and with this there will be ebbs and flow between what is being commissioned in the nations and what might be commissioned in England, it's unlikely that lower cost programmes will only be commissioned in England or that nations' would only provide higher tariffed content in a world of diversified commissioning. When interrogating Ofcom's assumptions, O&O also found that there are several elements of Ofcom's modelling that could be refined. In particular it found that the estimated costs burden could not relied upon given:

- Ofcom's model uses a forecast of the average cost per hour of programming made in England and the Nations based on a CAGR between 2017 and 2022 which was a period of increased commissioning in scripted content within the nations. See **Figure 5**[25]

[25] IBID

Figure 5



- Ofcom inadvertently assumes that a continued increase in scripted content in the nations and decrease in England will continue until 2034, which is unlikely give Ofcom's stated assumption that the same level of genre mix will continue across all the years forecast.
- There is no direct consideration of the main factors driving the change in average cost per hour; genre mix and share of peak-time programming, rather than content cost inflation or other macroeconomic factors.
- The increase of the average cost per hour in the nations and decrease in England, i.e. the forecasted divergence between the two lines in the above figure, is driving Ofcom's estimate for the financial impact. This divergence does not make sense, so there are reasons to believe that the estimated financial impact is unrealistically high.

8.13 The move to higher value commissions in the nations is beneficial for producers as it helps to build up the skills base in these genres in the local area and also builds up local capacity in these genres. Which in turn could benefit C4C's fulfilment of its nations quota as it looks to increase its commissioning in these genres. But it is unrealistic to assume that a continued increase in scripted content at the level suggested by Ofcom above will consistently happen especially if Ofcom anticipate a 'gradual shift' as C4C makes changes to the type of content in which it invests. Pact acknowledges that Channel 4's recent announcements within its 'fast forward' strategy may change the landscape but despite this, linear hours on both the main channel and portfolio channels will need to filled, and C4C will need to continue to invest in a broad range of UK-originated content representing the whole of the UK, if it is going to meet its remit. And a big part of how they are going to achieve this is through diversified portfolio commissioning as they acknowledge themselves within the consultation.[26]

[26] Channel 4 licence renewal, Ofcom, December 2023, p50

Benefits of an increased quota

8.14 We are also concerned that maintaining the status quo at Channel 4 could put the BBC's nations budget under further strain. The BBC plays an important role for our members based in the nations and Pact welcomed the BBC's Across the UK Strategy. Channel 4 also plays an equally important role in the development and maintenance of the production sector. It's important to consider the wider broadcasting ecology in the UK. ITV and Channel 5's investment in the nations and regions is relatively small in comparison with the BBC and Channel 4's, and much of ITV's out of London spend is with ITV Studios. Other UK broadcasters, such as Sky, and streamers, such as Netflix, do commission some content outside of London however, typically this is with already established companies and they do not have the same remit and obligations as the PSBs do. As such, maintaining the status quo at Channel 4 is unlikely to aid the further development of the sector in the nations.

8.15 Channel 4's investment and activities in Glasgow over a number of years have played an important role in helping to develop and maintain Glasgow as a successful production hub. Channel 4's move to Glasgow and the presence of local commissioners has helped strengthen access to commissioners for local producers and develop closer relationships between indies and commissioners. Channel 4's investment in Scottish companies through the Alpha Fund and the Indie Growth Fund has also helped to support the growth of a number of local companies. However, the most effective measure of developing and sustaining the local sector has been through commissions, particularly long running returning series such as *Location, Location, Location, Escape to the Chateau* and *Kirstie and Phil's Love it or List it*, all produced by local Glasgow based companies. Initiatives and funds are a useful tool in helping to develop a local production sector however, these need to be in done in conjunction with commissions. In all but one year between 2014-2022, new commissions made up a greater share of strands made in the nations than those made in the English regions.[27] We also note that there were more returning series on average across 2014-2022 made in the Nations, than those made in London[28]. Which indicates that producers in the nations do have the capacity to produce a returnable series, and can be successful in securing commissions for long running titles.

[27] Channel 4 nations and regions quotas Report, O&O, February 2024
[28] IBID

8.16 Increasing the nations quotas as per the BBC would provide a guaranteed level of investment in the respective nations. Which allows local businesses to have an opportunity to think more strategically, invest in the training and development of their staff, build up their slate of ideas and invest in R&D to win more commissions. The development of a local skills base is particularly important as other companies and productions look to move to the area. In Northern Ireland, there has been a number of initiatives and schemes to help build up the local skills base and production capacity, however the sector would benefit from an increase in returning commissions.

Northern Ireland

Northern Ireland has developed as a production hub for entertainment, comedy and factual. Pact has around 19 members in the area who produce programmes such as *Who Wants to be a Millionaire?, Blue Lights* and *Frank of Ireland.*

Northern Ireland has benefited from a number of initiatives, including a script partnership with BBC Comedy, More4 Northern Ireland and a development fund for female skewed factual with Disney+ and Northern Ireland Screen. All of these have played an important role in helping to build up capacity and develop the local sector. However, long running returning series are the key driver for developing the local sector.

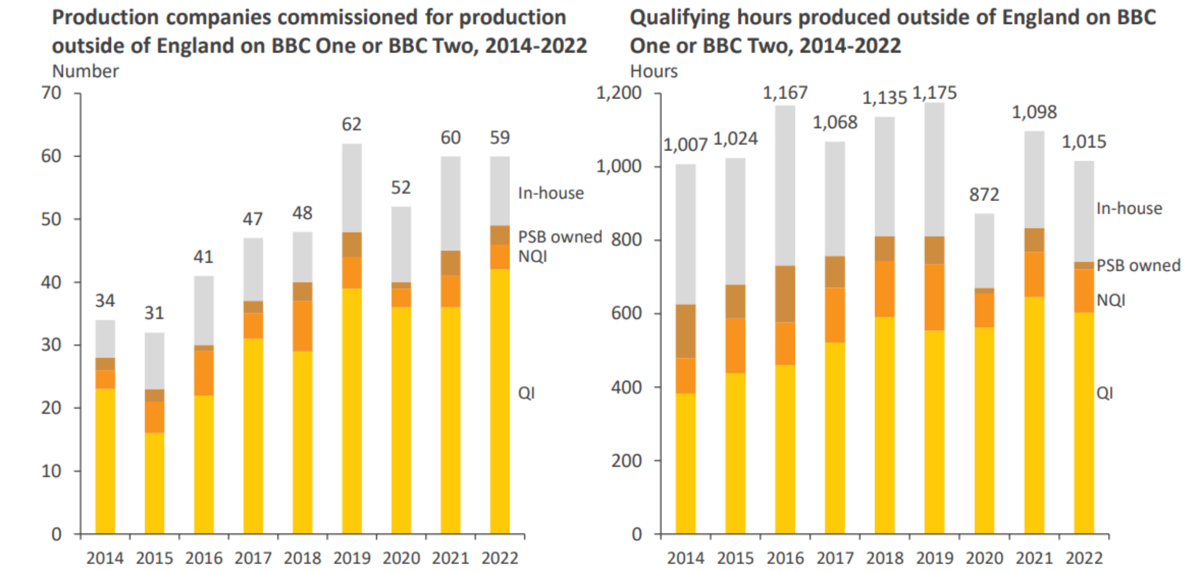
Derry Girls produced by Hat Trick for Channel 4, was the most watched TV programme in Northern Ireland in 2022, and has been a global success with more than 17 million hours being viewed on Netflix. The long running series played an important role in helping to develop local skills and improving representation of the region.

Representation

8.17 Channel 4 has a unique remit to promote diversity and innovation both on and off screen, and plays a distinct role in the UK's broadcasting ecology in this way. We note that Ofcom state that C4C needs to do more to improve representation, including commissioning programmes set in the nations. While, increasing the quotas could potentially be one way to further the objective of better representation across the UK, Ofcom don't think it's the only way. Pact agrees to a certain extent that there may be other ways to improve representation, through specific funds or initiatives. But this needs to be done alongside commissions that authentically portray the lives of different communities within them. *Derry Girls* is a key example of how commissioning authentic content can be a driver for increased representation.

8.18 Increasing access to commissioners and development funds for indies in the nations are welcomed and useful to a certain extent, however if these don't result in commissions; viewers are not accessing seeing their lives and local communities across the nations on screen through new commissions. As we can see below the BBC quotas had a direct tangible impact on the number of producers being commissioned outside of London with the BBC relying less on in-house and more on qualifying independents.

Figure 6[29]



8.19 While we understand that budgets are under strain, strengthening access to commissioners and development schemes should be something that C4C is already doing.

Schools programming

Question 11: Do you agree with our proposal to retain the requirement to transmit at least half an hour of schools programmes, excluding presentation material, in each calendar year of the licensing period?

9.1 Pact agrees with Ofcom's proposal to retain the requirement to transmit at least half an hour of schools programmes in each calendar year. Channel 4 has a specific remit to produce content that appeals to older children, and plays a distinct role from the other PSBs content for children and younger audiences. While Ofcom have criticised C4C previously for its 'lack of a coherent' strategy around teens and young viewers, since then C4C seem to have increased its investment in content for younger viewers through commissions and the launch of Channel 4.0.

9.2 We understand that the Media Bill will remove the schools programming quota. While we don't think this will have a substantial impact on our members and the children's genre overall, Pact remains concerned about the state of the children's production sector.

Indie quota

Question 12: Do you agree with on our proposal to retain the condition that provides that in each calendar year not less than 25% of the total amount of time allocated to

[29] IBID

the broadcasting of qualifying programmes on Channel 4 must be allocated to the broadcasting of a range and diversity of independent productions?

10.1 In principle Pact agrees with this proposal as an interim measure given the current statutory framework that Ofcom is operating off and welcome that Ofcom acknowledge the recent government announcement that confirmed the quota level would be increased from 25% to 35% as part of a package of mitigations intended to ensure that Channel 4's role in driving investment in the independent production sector would be safeguarded if it decided to develop its own production capability.[30]

Licence period

Question 13: Do you agree with our proposal that the Channel 4 licence should be renewed for a period of ten years?

11.1 Pact agrees in principle this should be renewed for ten years (but with the provision of being reassessed once the Media Bill receives royal assent) to give certainty to market. We appreciate that this would provide for greater business continuity planning and long term certainty for decisions made around planning and commissioning.

[30] Written ministerial statement made by Lucy Frazer, Secretary of State for Culture, Media and Sport on 8 November 2023. Webpage: Statement.

Oliver & Ohlbaum

Channel 4 Nations and Regions quotas

A report prepared by Oliver & Ohlbaum for Pact

February 2024

Glossary

This slide outlines the key sector definitions used in this report

- **Qualifying programmes/hours:** This refers to first-run originated network programming and excludes news
- **Made Outside London (MoL):** This refers to production that meets two out of the three criteria: a substantive business and production based in the UK outside the M25; at least 70% of the production budget must be spent in the UK outside the M25; and at least 50% of the production talent (i.e. not on-screen talent) by cost must have their usual place of employment in the UK outside the M25
- **Made Outside England (MoE):** This refers to production classified as Made Outside London, that has two of its three criteria assigned to either Scotland, Wales or Northern Ireland
- **Qualifying independent production company (QIs):** A company not tied to a UK broadcaster through significant common ownership. The Broadcasting (Independent Productions) Order 1991 (as amended) states that an independent producer is: not employed by a broadcaster; does not have a shareholding greater than 25% in a UK broadcaster; or 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%
- **Non-qualifying independent production company (NQIs):** A production company which is more than 25% owned by any company which also owns a UK broadcaster
- **In-house studio:** A production company which is more than 25% owned by the UK broadcaster, or the parent company of that broadcaster, that the company is producing a programme for
- **External PSB studio:** A production company which is more than 25% owned by a UK PSB broadcaster, or the parent company of that PSB broadcaster, other than the broadcaster that the company is producing a programme for

Source: Ofcom

Introduction

Oliver & Ohlbaum was commissioned by Pact to conduct analysis to inform its written response to Ofcom's consultation on the proposals for the new Channel 4 licence

Background

Pact has previously argued that individual Nations quotas should be introduced, as per the BBC's regime, and that Channel 4's Made Outside London quota should be raised up to the 50 per cent level of its voluntary commitment.

In Ofcom's consultation on the proposal for the new Channel 4 licence it finds that a higher MoE quota would introduce a significant burden on C4C due to increased costs in the Nations, and that Channel 4's sustainability and operational flexibility would be at risk if the Nations quota was increased. It also finds that raising the C4 MoL quota would not make a significant difference to the impact of total PSB spend outside London.

This report looks at the related data and evidence to address a series of questions raised by Pact in relation to the consultation.

This report comes in the context of recent pressures faced by Channel 4

It is worth noting that in late January 2024 and in response to the advertising and wider economic downturn, C4C announced reductions in staff, commercial channels, and sale of its London HQ. In commissioning, Channel 4 said it would focus on fewer new titles that could generate greater scale and impact and shift further to a digital-first commissioning strategy focused on driving streaming growth.

The scope of this report (1/2)

We have set out below the questions Pact asked us to research, along with brief details of the analysis we conducted in response to each

1. **The baseline: how has C4 performed against the Made outside England quota and its MoL voluntary commitment?**
   - Historic performance against MoE quota in terms of share of hours and share of spend
   - Historic performance against MoL voluntary commitment in terms of share of hours and share of spend
2. **Is there sufficient capacity in the Nations to supply a raised Channel 4 Made Outside England quota?**
   - Growth in the number of labels producing in each Nation, and the share of those with a base in the Nations
   - Growth in the number of hours being produced in the Nations, and the share by those with a base in the Nations
   - Trends in the number of producers in the Nations, and hours per producer, by genre
3. **Is production in the Nations becoming more expensive for Channel 4?**
   - Changing genre mix: the driver of observed changes in the average cost per hour of production in the Nations
   - The close relationship between share of peak-time programming and average cost

The scope of this report (2/2)

We have set out below the questions Pact asked us to research, along with brief details of the analysis we conducted in response to each

4. **Does Ofcom accurately estimate the potential impact of introducing a 16 per cent Made Outside England quota for Channel 4?**
   - Our quantification of the impact using Ofcom's modelling approach
   - Limitations of Ofcom's methodology, which lead to an overestimation of the impact

5. **Would raising the Made outside London quota to match Channel 4's voluntary commitment make a meaningful difference to spend outside London?**
   - Estimation of the value of the voluntary commitment in protecting Made Outside London spending by C4

6. **What is the rationale for the BBC quotas and how has its commissioning in the Nations evolved since quotas were introduced?**
   - History of the BBC's quotas, their rationale, and BBC performance against them
   - Consideration of whether a policy justification exists for introducing individual Nations quotas for Channel 4, at the level of the BBC's existing quotas

Summary

Below is a high-level overview of the results of our findings in response to each of Pact's questions

1. **Channel 4 had to improve performance to comply with previous quota increases:** It had to produce higher value hours in the Nations from 2020 to meet the increased MoE quota, and sharply increased its MoL hours to meet its 50% voluntary spend commitment two years early
2. **The market has previously been able to respond to an increase in MoE commissioning**: Capacity in the nations has increased over time alongside the increase in commissioning. Output per producer varies by genre but has either decreased or remained constant, which may suggest that available capacity remains
3. **Production in the Nations has not necessarily become more expensive for Channel 4:** Ofcom found that average cost per hour has become higher for C4 content produced in the Nations than in England, whereas we found that changes in genre mix are an important factor. The changing share of production that was peak-time programming was a key driver of the increased average cost per programme hour made outside England between 2014 and 2022
4. **We think the financial burden on C4C would be less than Ofcom estimate:** We reproduced and interrogated Ofcom's modelling of the financial impact. Ofcom's approach to the modelling has several significant limitations which affect the outputs. We would question the divergence in average cost per hour in the Nations and in England for a number of reasons, and so we believe the estimated financial impact seems unrealistically high
5. **We estimate C4's voluntary commitment protected £70m of MoL spend in 2022:** Should Channel 4's spend in 2022 have been at quota levels rather than its commitment of 50 per cent, we estimate that its spend outside London would have been £70m lower, assuming that there would have been no topline change in qualifying spend in this scenario
6. **The BBC's Nations quotas are broadly proportional to each Nation's share of the UK population:** Network spend targets for the Nations were set by the BBC in 2008, devised to reflect Scotland, Wales and Northern Ireland's share of the UK population, which evolved into Ofcom's quotas in 2018. The BBC's targets for 2016 were instrumental in increasing qualifying spend in the Nations up to the levels seen today

Contents

How has C4 performed against its MoE quota and MoL voluntary commitment?

To provide some initial context, we reviewed how Channel 4 has performed historically against its Made Outside England quota and its Made Outside London quota and voluntary commitment. Channel 4 had to improve performance to comply with previous quota increases

How has Channel 4 performed against its Made Outside England quota?

- **The level of the quota:** The Made outside England Quota applies to both hours and spend, and was set at 3% originally, before being increased to 9% in 2020
- **Performance in terms of hours:** Channel 4 has met the 2020 9% level since 2015. We estimate share of hours increased slightly in 2023. Though recent years have seen a decline in share of hours to just above the 9 per cent level, having been as high as 12.1% in 2017
- **Performance in terms of spend:** Channel 4 has delivered against the quota, but had to produce higher value hours in the Nations from 2020, in order to meet the increased quota

How has Channel 4 performed against its voluntary Made Outside London commitment of 50% of spend?

- **The level of the quota and voluntary commitment:** the quota of 35% applies to both share of hours and share of spend; Channel 4's voluntary commitment of 50% applies to share of spend – announced in 2018 and effective from 2023
- **Performance against the quota:** Channel 4 easily meets the quota in terms of both hours and spend, and the share of each has been increasing over time
- **Performance against its voluntary commitment:** Channel 4 achieved its voluntary spend commitment two years early, in 2021, supported by an increase in MoL hours. (This was not seen in MoE data, so the increase benefited the English regions)

C4 has production quotas for Made Outside London and Made Outside England

C4C has two Nations and Regions quotas enforced by Ofcom, both measured by share of qualifying hours and spend of its main channel network production

C4C has a Made Outside London quota of 35% of qualifying hours and spend

- In 2004, C4C's first Ofcom licence introduced a Made Outside London quota of 30% of hours and spend.
- Following the 2009 PSB Review, Ofcom raised the quota to 35% in 2010 after C4C stated it intended to increase production out of London
- In the 2014 licence renewal, Ofcom found that 35% remained appropriate
- As part of its 2018 '4 All the UK', C4C announced its plans to voluntarily commit to increasing Made Outside London spend to 50% by 2023. It achieved its aim in 2021

C4C has a Made Outside England quota of 9% of qualifying hours and spend

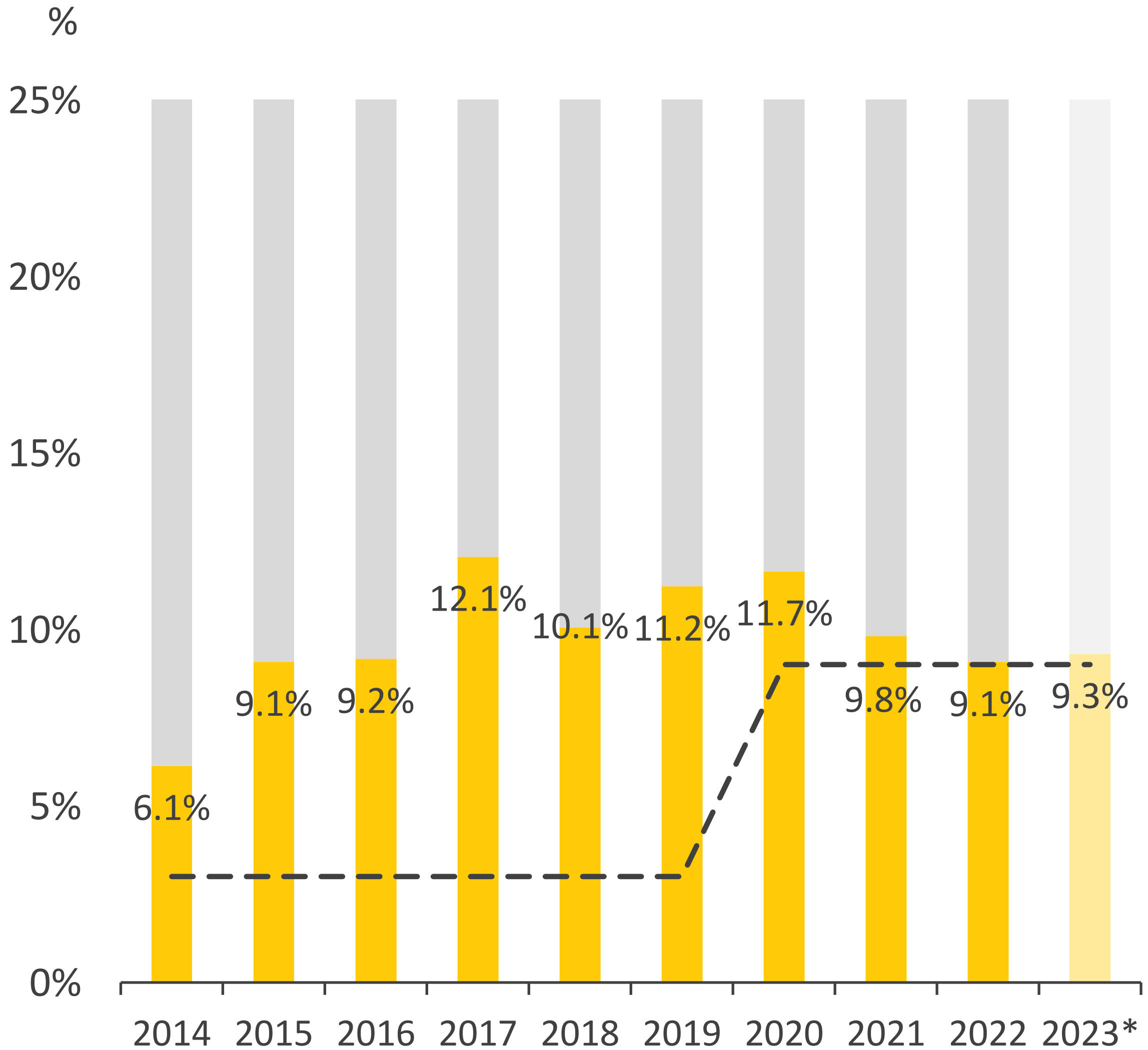
- A Made Outside England quota of 3% was first announced in the 2009 PSB Review and became enforceable from 2010
- Following the 2014 licence renewal, it was announced that the quota would be raised to 9% (to be achieved by 2020), after C4C stated it intended to increase production out of England to these levels
- In its Library research briefing to the Media Bill published on 17th November 2023, DCMS stated that "Ofcom would consider whether any changes were needed to these as part of its consultation on the terms of the next Channel 4 licence."

Note: Qualifying production refers to first-run originations and excludes news

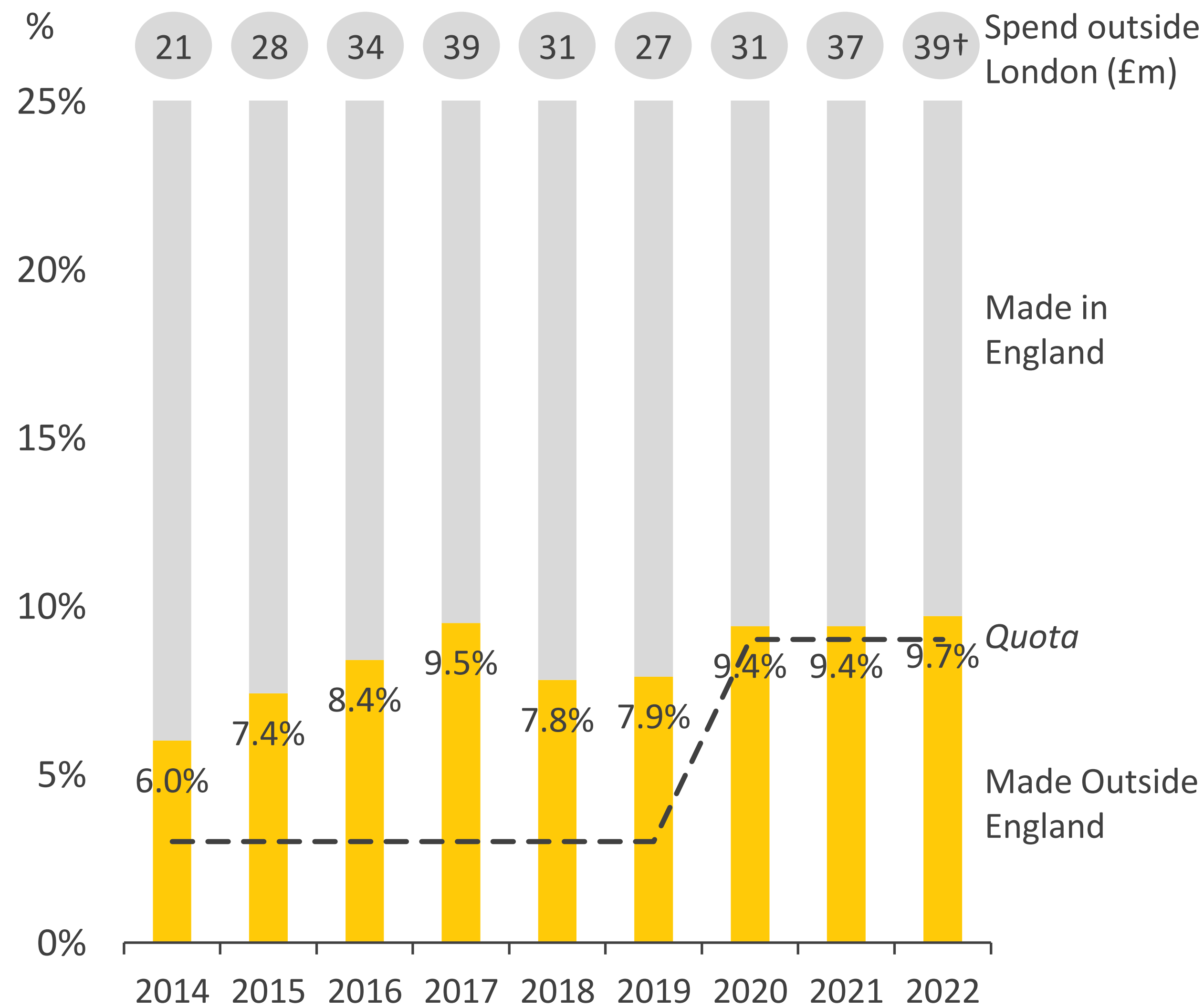
Channel 4 has met its MoE quotas with relatively fine margins in recent years

By hours, Channel 4 has met the 2020 9% level since 2015, though recent years have seen share just above the quota. Since the quota increased in 2020, Channel 4 has produced higher value hours in the Nations to help it meet the spend quota

Share of Channel 4 qualifying hours outside England, 2014-2023*



Share of Channel 4 qualifying spend outside England, 2014-2022



*Note: Qualifying production refers to first-run originations and excludes news. *2023 estimated using the Oliver & Ohlbaum Producer Database. † Estimated as Channel 4 stopped reporting actuals in 2022*

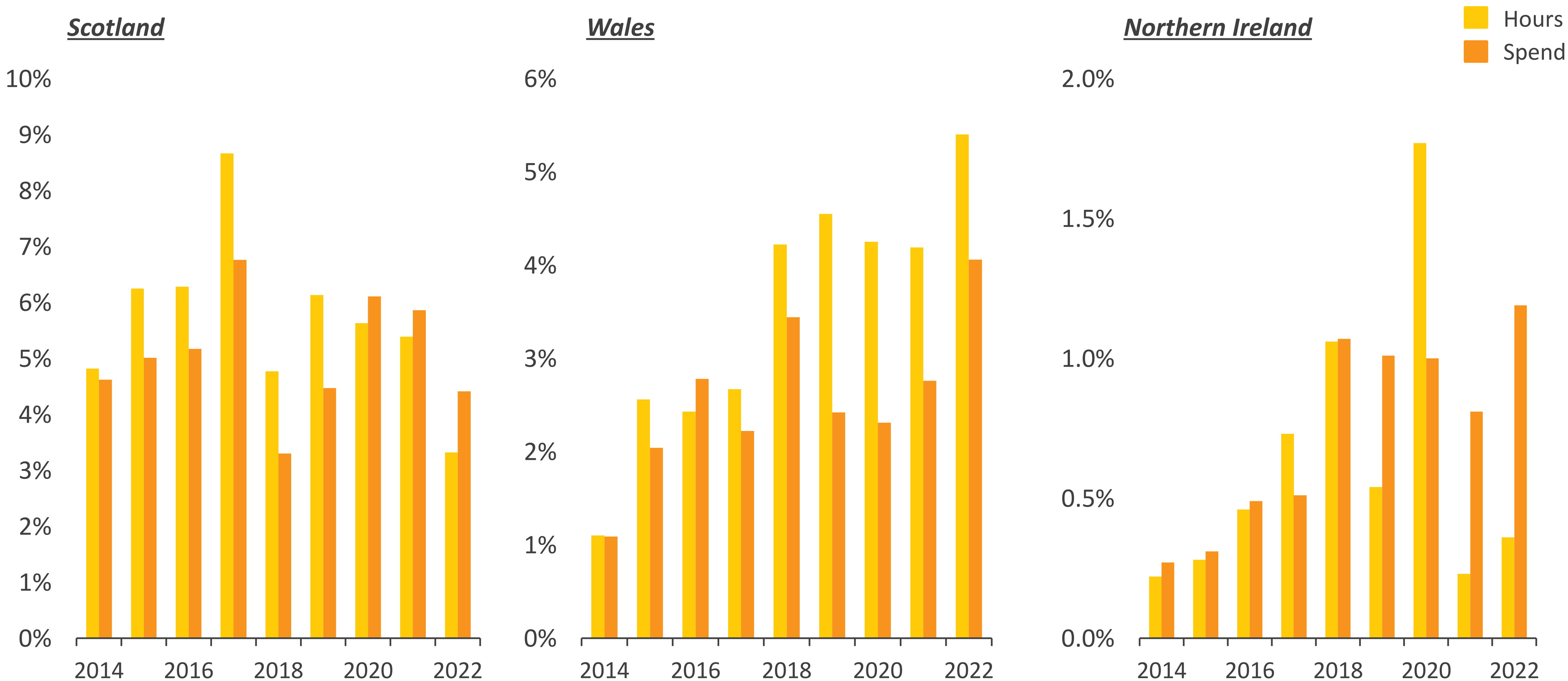
Source: Ofcom PSB annual reports, Oliver & Ohlbaum Producer Database

Output in Wales and N. Ireland has generally increased, while Scotland has fluctuated

Share of value and volume of production in Wales has broadly increased over time. Northern Ireland's share of spend has grown, while share of hours has decreased substantially in recent years due to a pivot to higher cost genres. Scotland fluctuates, though has generally moved towards more expensive hours

Share of Channel 4 qualifying production outside England, by Nation, 2014-2022

%

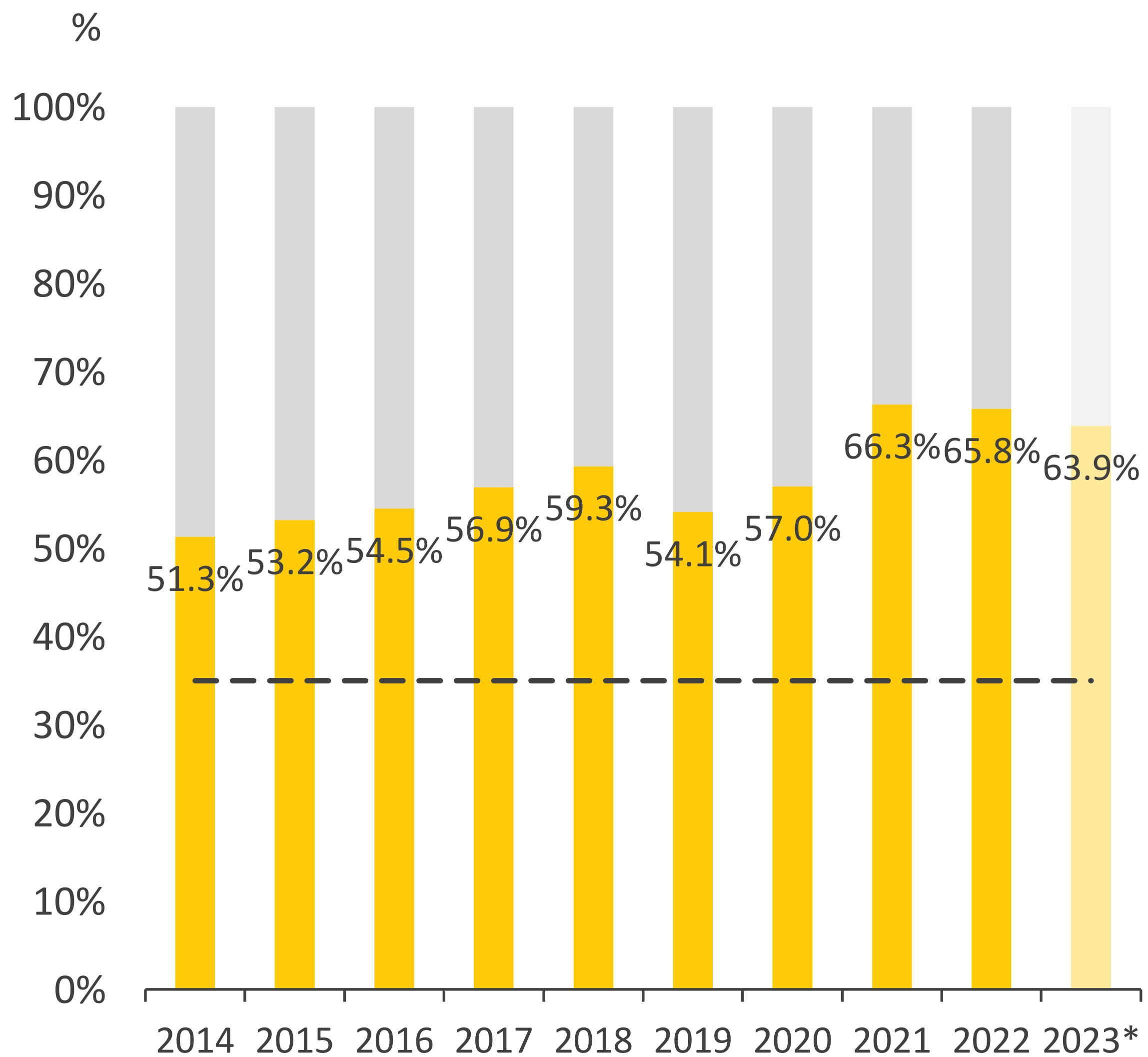


Note: Qualifying production refers to first-run originations and excludes news
Source: Ofcom PSB annual reports

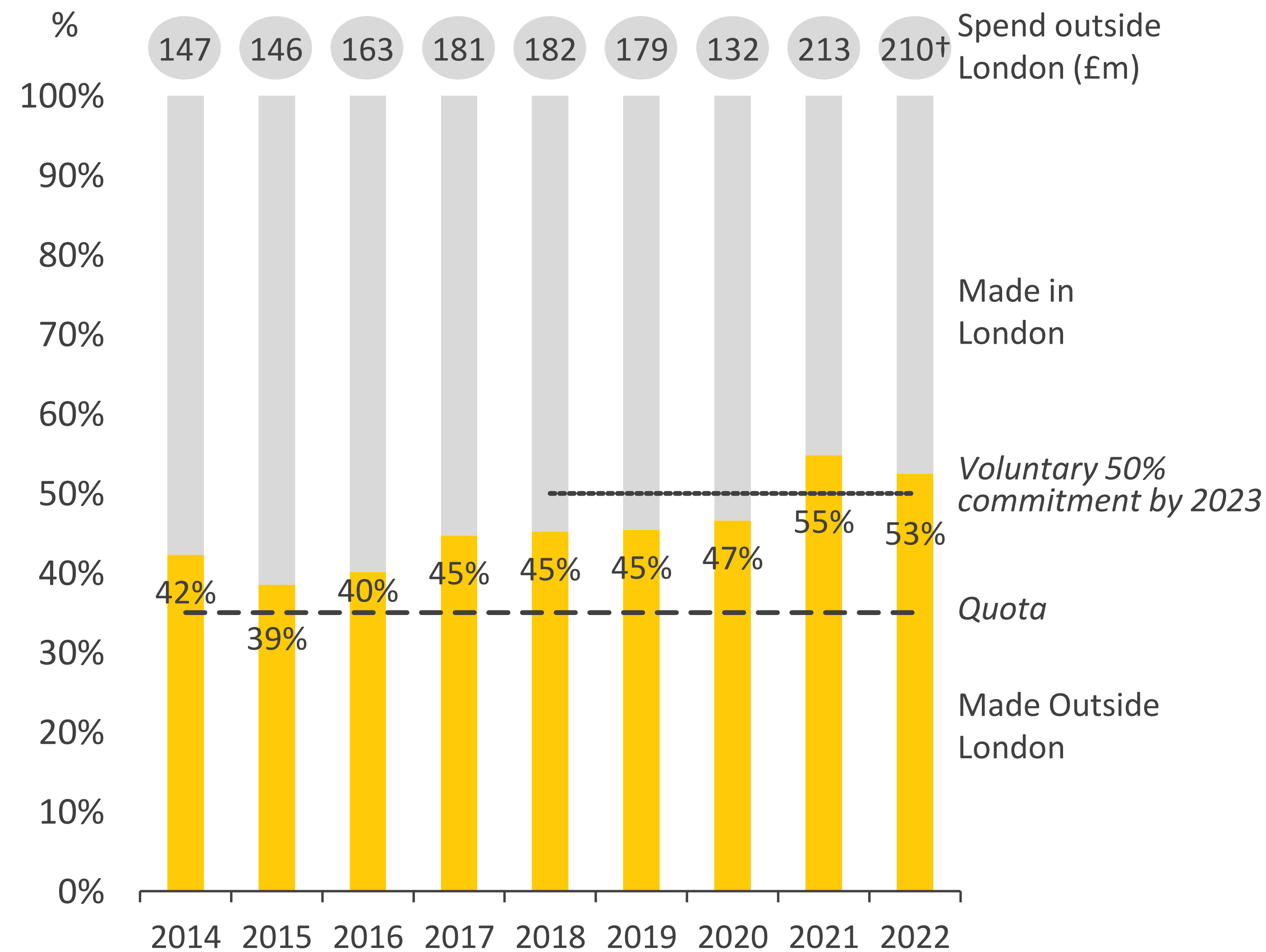
Channel 4 achieved its voluntary MoL spend commitment two years early in 2021

In 2018 C4C voluntarily committed to increasing MoL spend to 50% by 2023. Hours rose sharply in 2021 as Channel 4 increased its MoL spending, achieving its target two years early. We estimate share of hours decreased slightly in 2023

Share of Channel 4 qualifying hours outside London, 2014-2023*



Share of Channel 4 qualifying spend outside London, 2014-2022



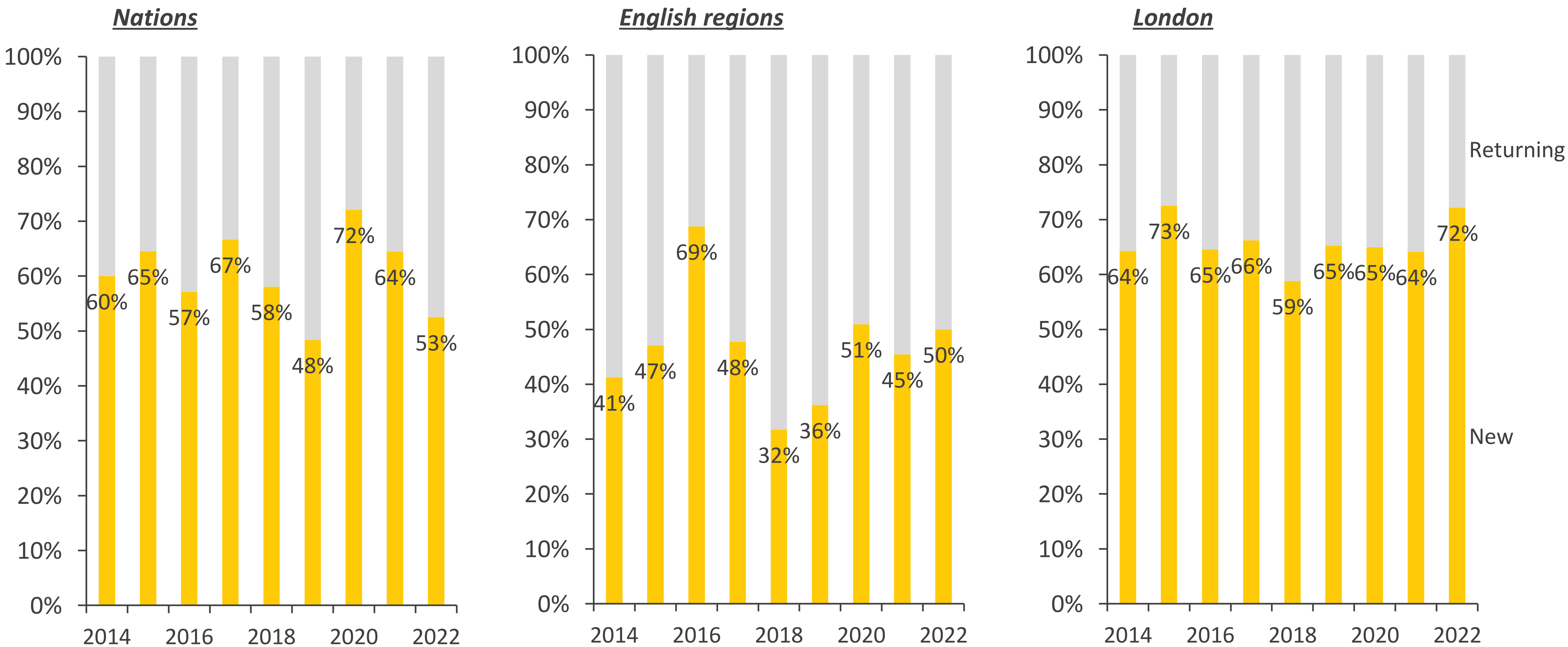
Note: *Qualifying production refers to first-run originations and excludes news. *2023 estimated using the Oliver & Ohlbaum Producer Database. †Estimated as Channel 4 stopped reporting actuals in 2022*

Source: *Ofcom PSB annual reports, Oliver & Ohlbaum Producer Database*

New strands make up a larger share of Nations commissions than the English regions

In all but one year between 2014-2022, new commissions made up a greater share of strands made in the Nations than those made in the English regions. The share of strands that are new are normally highest in London however

Share of qualifying strands that are new vs returning, by region allocation, 2014-2022
%



Note: Qualifying production refers to first-run originations and excludes news. Region as determined by Made Outside London register.
Source: Ofcom Made Outside London registers, Oliver & Ohlbaum Producer Database

Contents

Is there sufficient capacity in the Nations to supply a raised Channel 4 MoE quota?

Capacity in the nations has increased over time alongside the increase in commissioning. Output per producer varies by genre but has either decreased or remained constant, suggesting that available capacity remains

Has capacity in the Nations risen over time, considering the quotas introduced to date?

- **Number of producers:** the number of labels producing in each of the Nations has increased over time as commissioning has increased
- **Share with a base in the nations:** the share of companies with an address in the Nations, either an office or HQ, has increased over time

Has the output of producers in the Nations increased over time?

- **The number of hours:** the number of hours produced in each of the Nations for the PSB main channels has increased over time
- **Share of hours from producers based in the nations:** the share of those hours from producers with an address in the Nations has increased over time – i.e. a larger proportion have an address where the production is registered

Is there a variety of production capability in the Nations and any evidence of available capacity in particular genres?

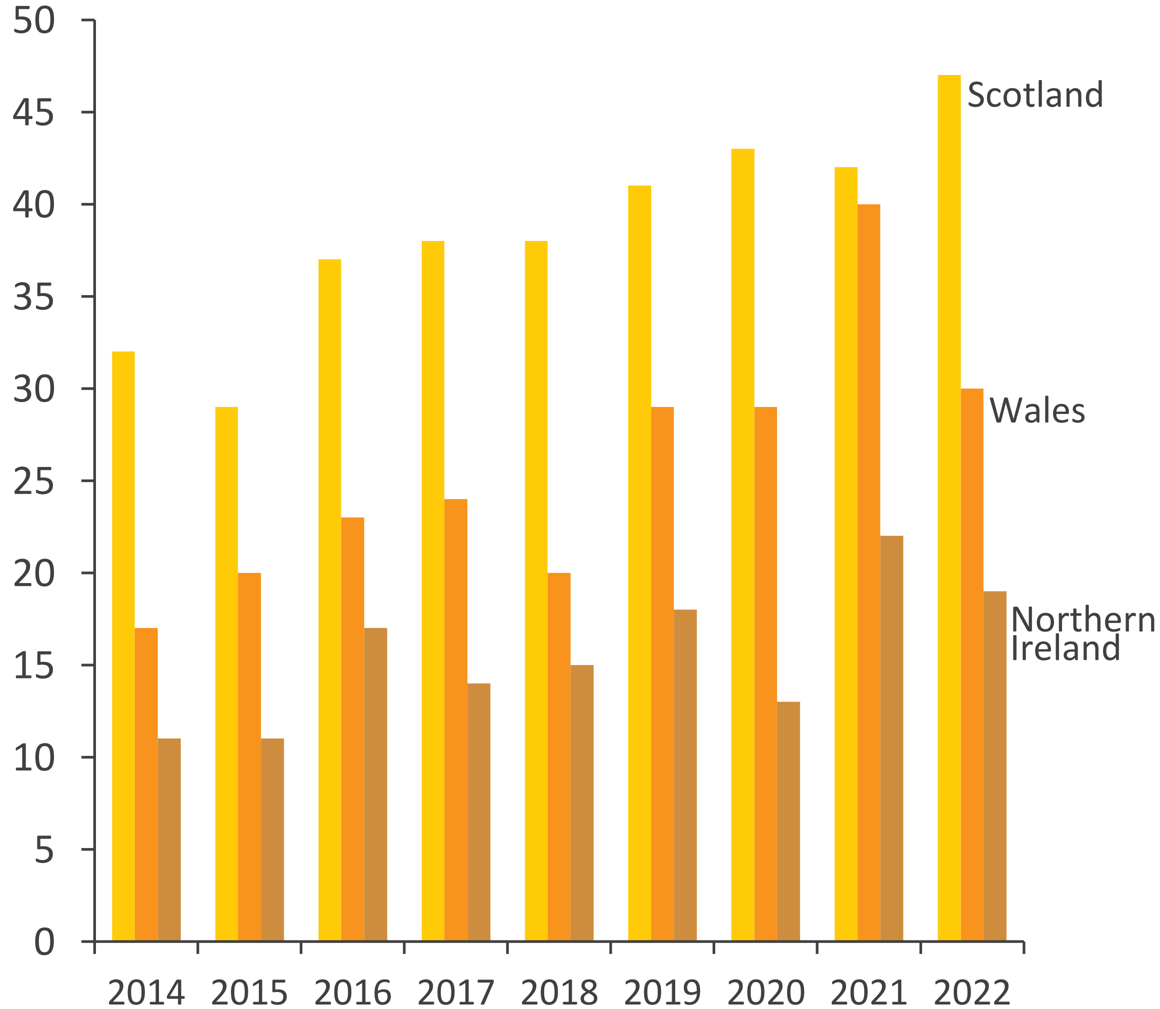
- **Variety of genres:** all major categories of genres are produced in the Nations, and the number of companies commissioned for factual and entertainment programming has increased
- **Average hours per producer:** the average number of hours made by each company in the Nations has decreased overall, though the picture varies by genre. This suggests that there may be capacity for more production

The number of labels producing in each Nation has increased over time

More production companies are producing Made Outside England, and the share of those with a permanent address in the Nations is either flat or increasing

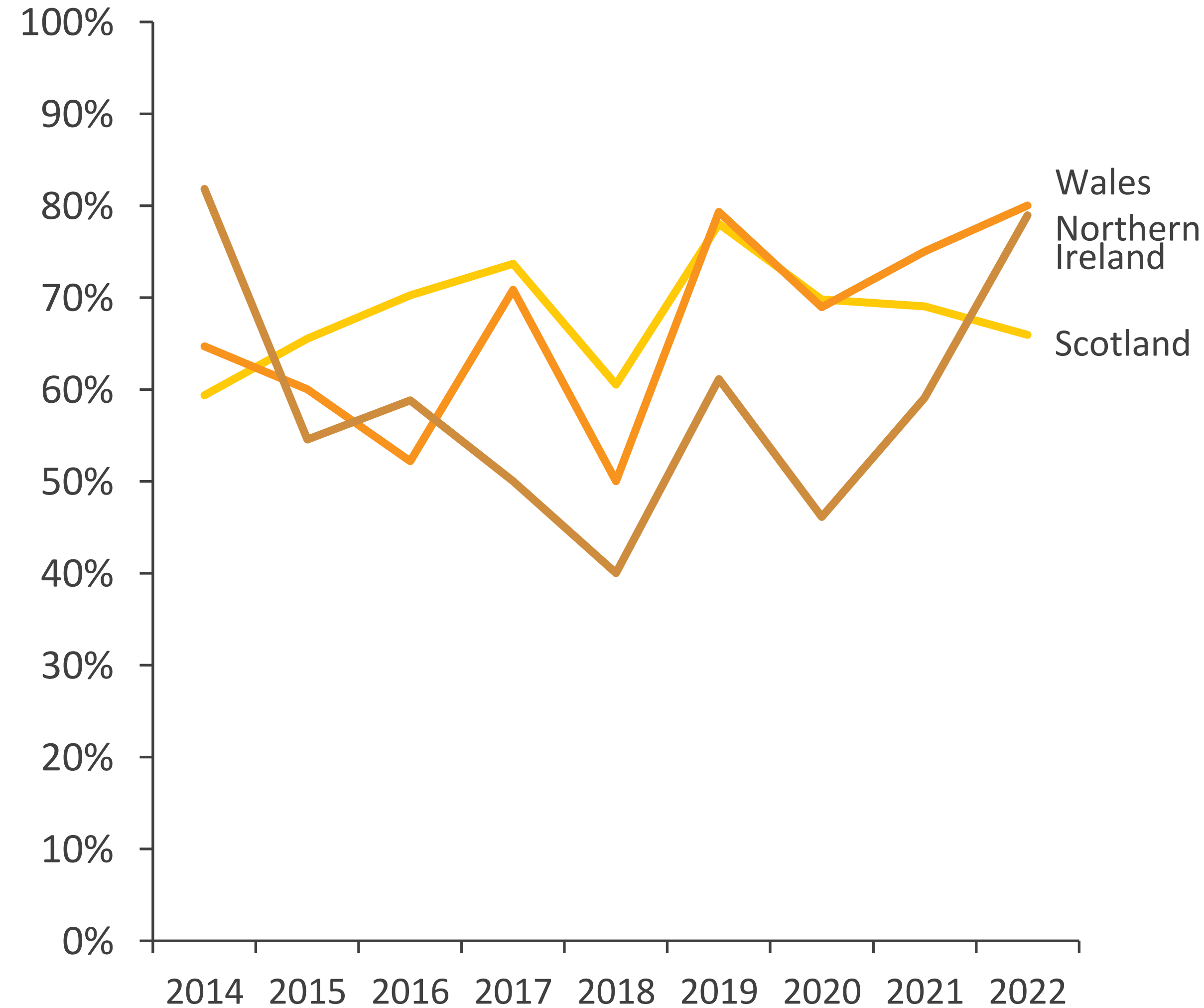
Companies commissioned for MoE production in each Nation on PSB main channels, 2014-2022

Number



Share of MoE companies with an address in each Nation commissioned for PSB main channels, 2014-2022

Per cent



Note: Production in the nation as determined as per Made Outside London register. Qualifying production only. Production companies include labels owned by larger groups. Permanent address includes office or headquarters, according to the label's website

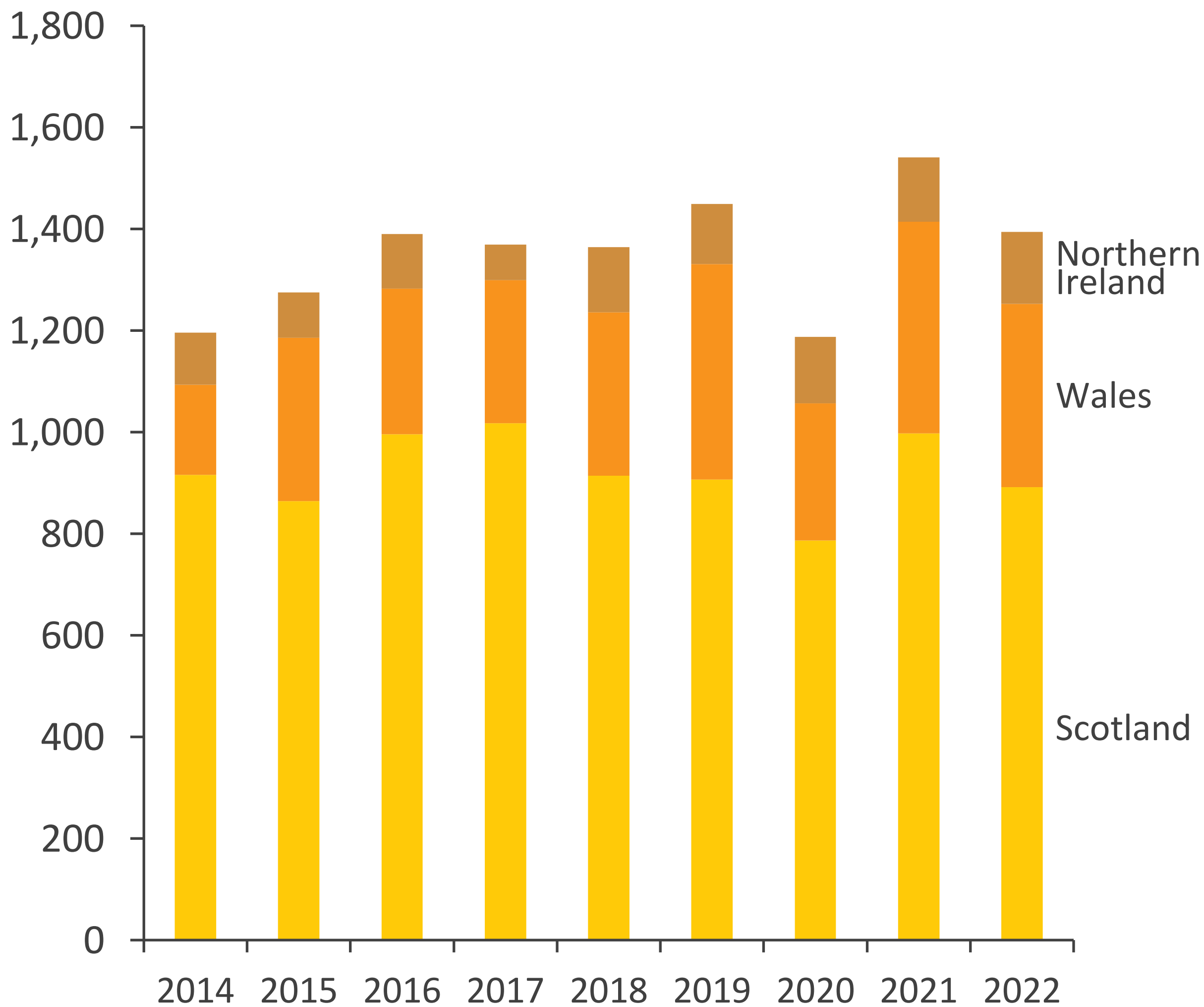
Source: Ofcom Made Outside London registers, Oliver & Ohlbaum Producer Database

More MoE hours are being made by producers with an address in the Nations

The number of Made Outside England hours produced per year has increased over time, and the share of those hours made by a producer with a permanent address in the Nations is growing

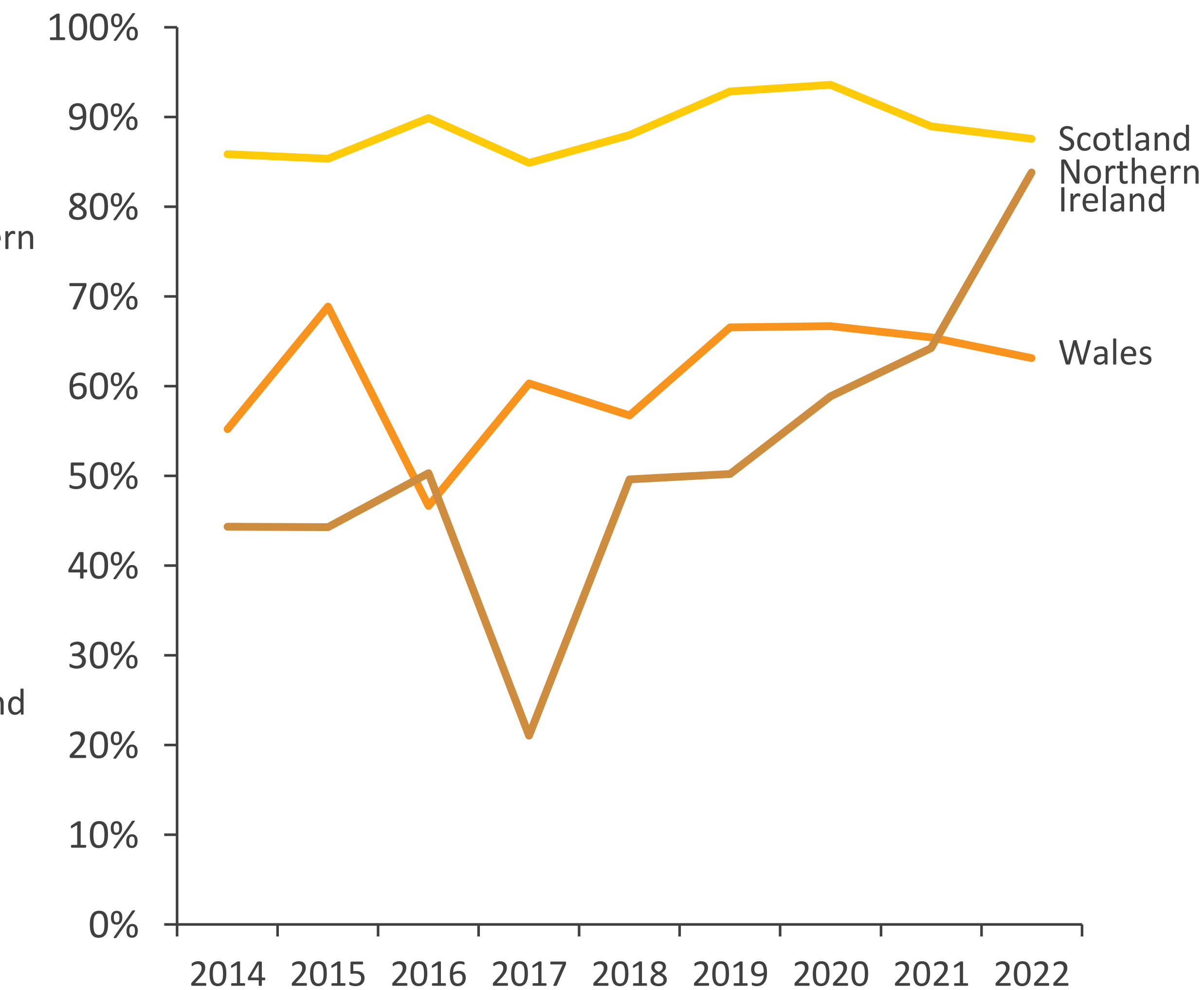
MoE hours produced in each Nations on PSB main channels, 2014-2022

Number



Share of MoE hours with an address in each Nation commissioned for PSB main channels, 2014-2022

Per cent



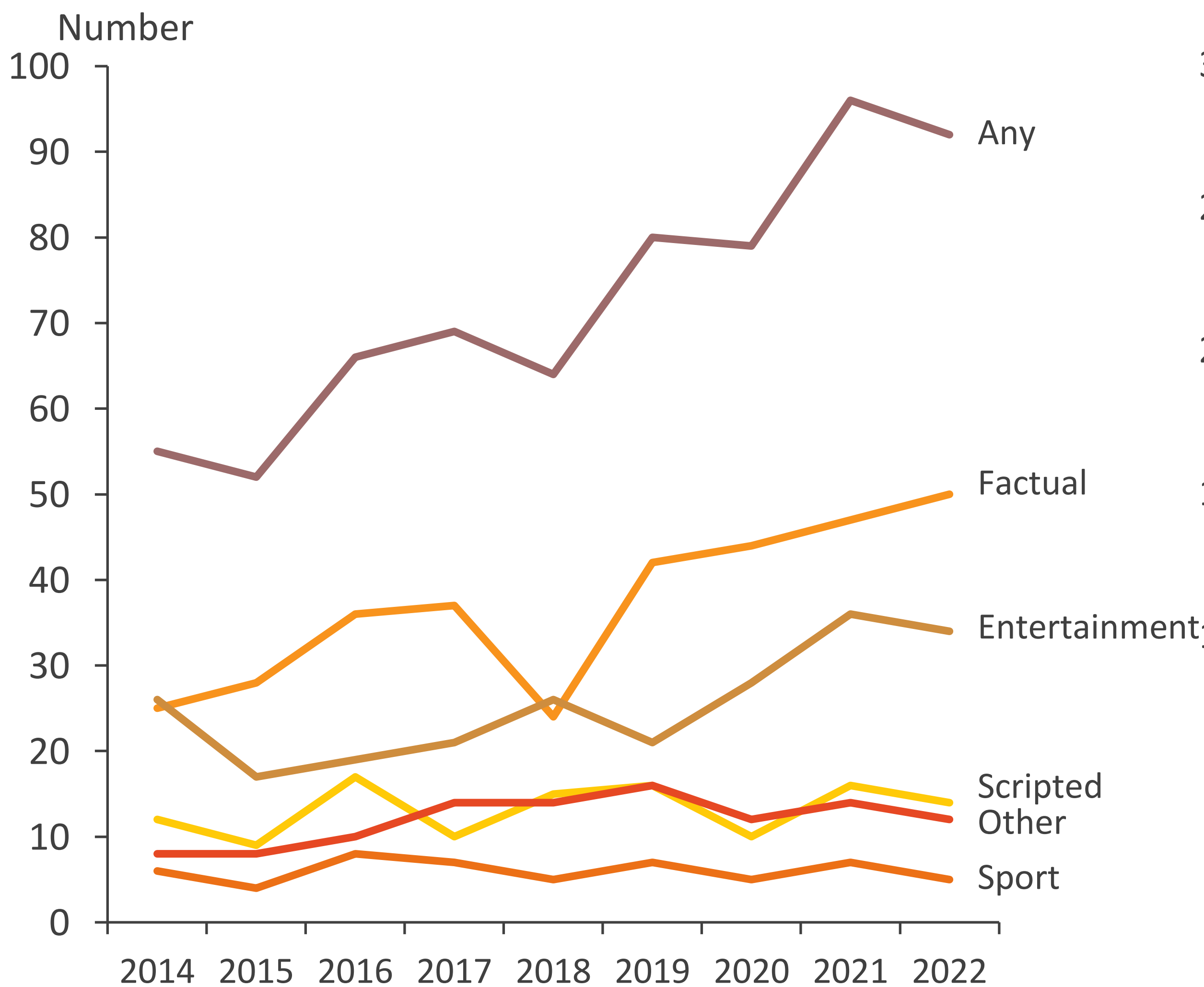
Note: Production in the nation as determined as per Made Outside London register. Qualifying production only. Production companies include labels owned by larger groups. Permanent address includes office or headquarters, according to the label's website

Source: Ofcom Made Outside London registers, Oliver & Ohlbaum Producer Database

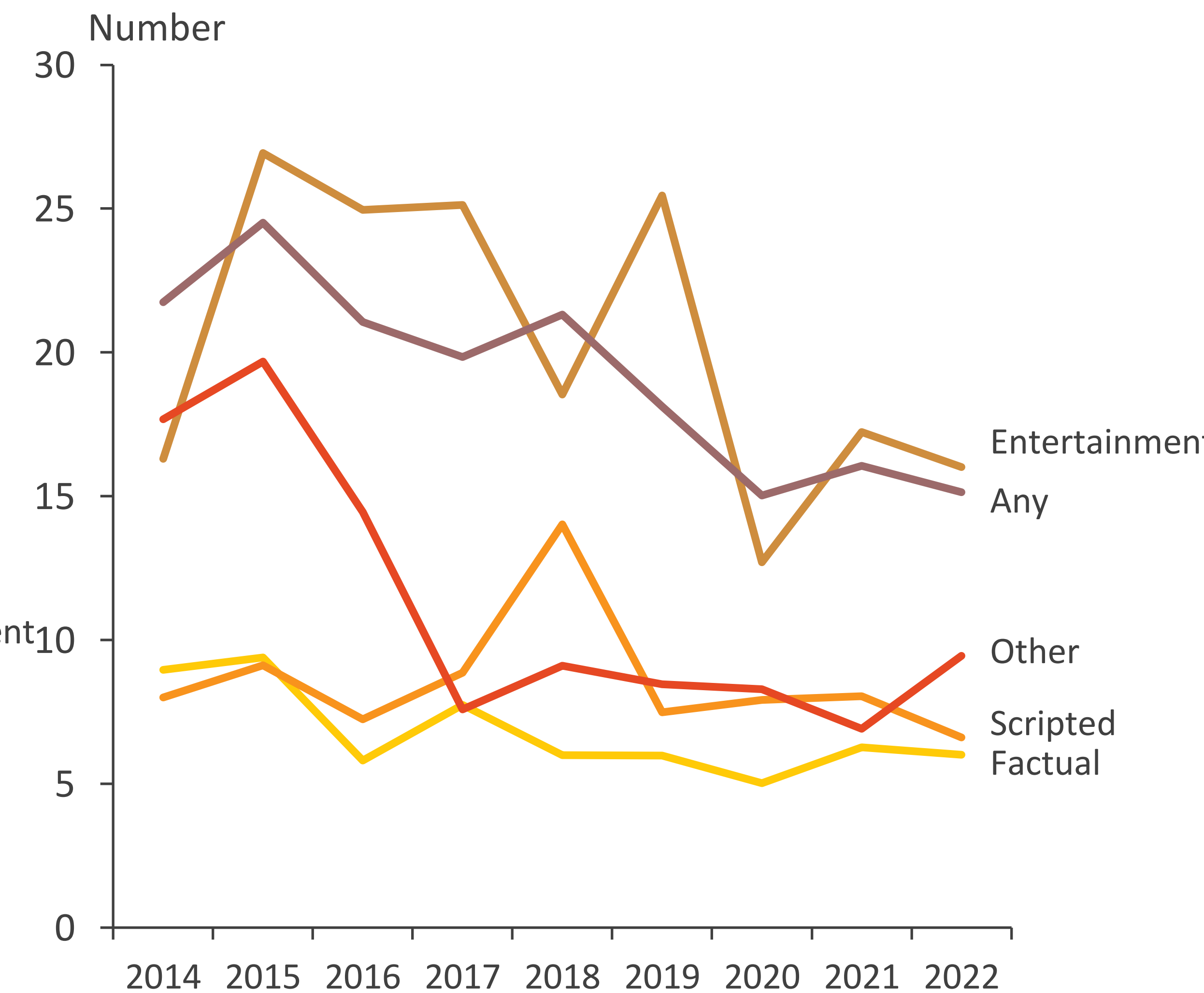
The market has been able to respond to an increase in MoE commissioning

More companies have had commissions in the Nations over time, while the average number of hours per company has decreased, suggesting that there is sufficient capacity for more production. Factual has had the largest increase in companies of all genres, while the average number of factual hours per factual company has decreased

Companies commissioned for MoE production on PSB main channels, by genre group, 2014-2022



Average MoE hours per company commissioned for PSB main channels, by genre group*, 2014-2022



*Note: As determined by Made Outside London register. Qualifying production only. Production companies include labels owned by larger groups Factual includes general factual and specialist factual, scripted includes drama and comedy, entertainment includes factual entertainment. *Sport excluded from chart due to high volume, but included in "Any"*

Source: Ofcom Made Outside London registers, Oliver & Ohlbaum Producer Database

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Is production in the Nations becoming more expensive for Channel 4?

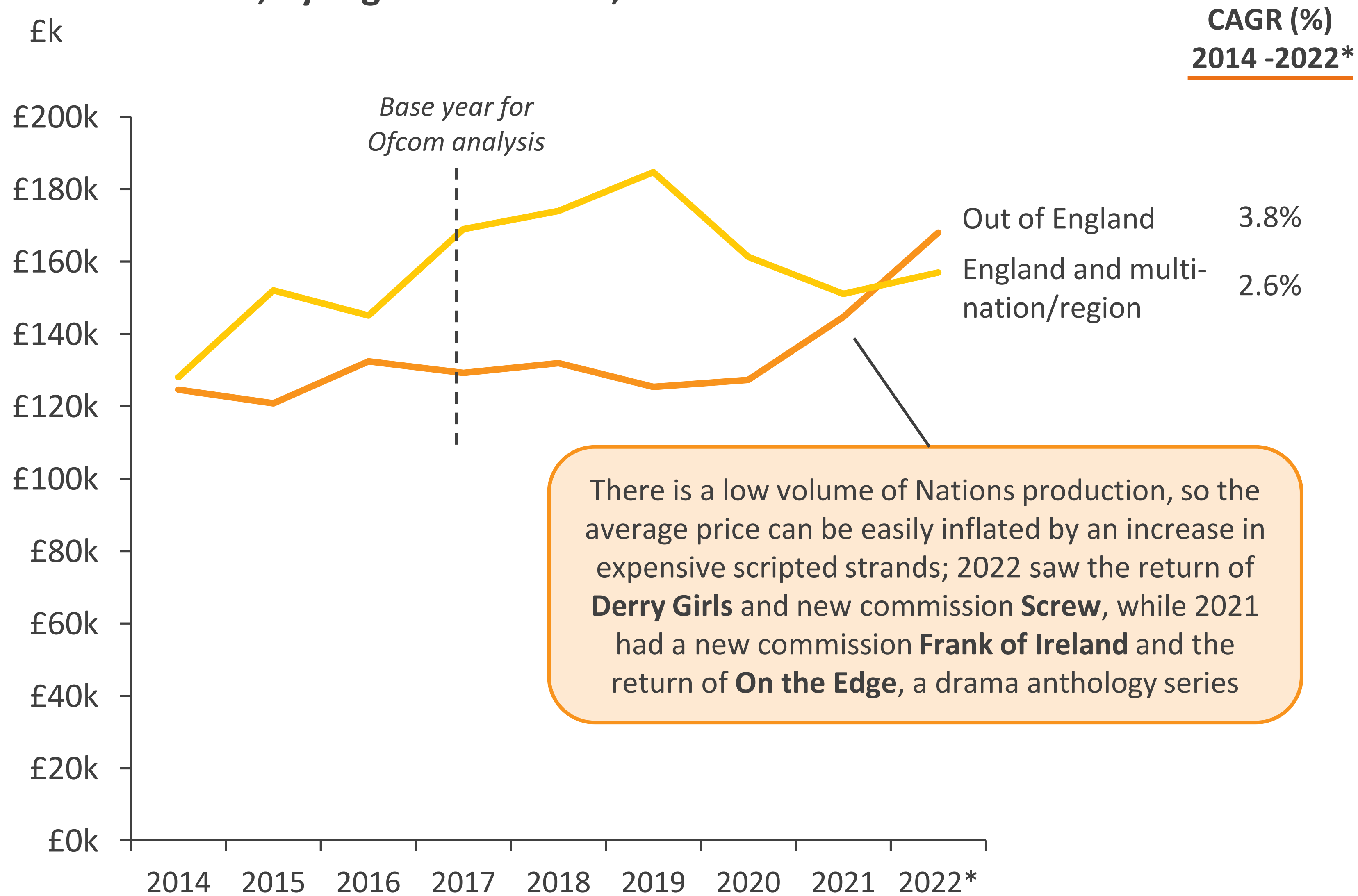
Ofcom finds that average cost per hour is becoming higher for C4 content produced in the Nations than in England or multi-nations/regions. We found that changes in genre mix have driven most of this increase

- **Ofcom finds that average cost per hour for C4C programming produced in the Nations has increased year on year and exceeded England in 2022:**
  - Ofcom provides a chart plotting the average cost per programme hour from 2017-2022
  - Ofcom then models the potential impact of increases in the C4C's Nations quota on its cost of content. We have looked at the modelling and related data
- **O&O finds that Channel 4 production in the Nations has changed significantly since 2017:**
  - Hours produced in the Nations have decreased since 2017, while topline spend is unchanged, driven by a shift towards a more expensive genre mix, including more drama and comedy
  - Arguably, attracting higher value commissioning is a success story for the Nations
- **Channel 4 hours and spend in England has remained largely unchanged since 2017:**
  - Hours and spend on production in England for Channel 4 main channel, and the genre distribution within them remain similar over time, although the share of scripted content has declined slightly
- **It is clear that the increase in spend on peak-time production has driven up average costs in the Nations:**
  - The changing share of production that was peak-time programming was a key driver of the increased average cost per programme hour made outside England
  - This does not mean that production in the Nations has become more expensive for Channel 4 per se

Ofcom finds that average C4 cost per programme hour is higher in the Nations

In its consultation document, Ofcom provides a chart plotting the average cost per programme hour for C4 and finds that the Nations have increased year on year, and overtook England in 2022

Average cost per programme hour for qualifying production on Channel 4 main channel, by region allocation, 2014-2022*



- We have reproduced Ofcom's 2017-22 chart, and expanded it to include 2014-16
- It suggests that production in the Nations has recently become more expensive at an aggregate level, while England has become cheaper since 2019
- But it is important to compare like with like
- One has to consider the programming produced, i.e. how the composition has evolved in terms of genres and peak vs daytime production – since they have very different costs

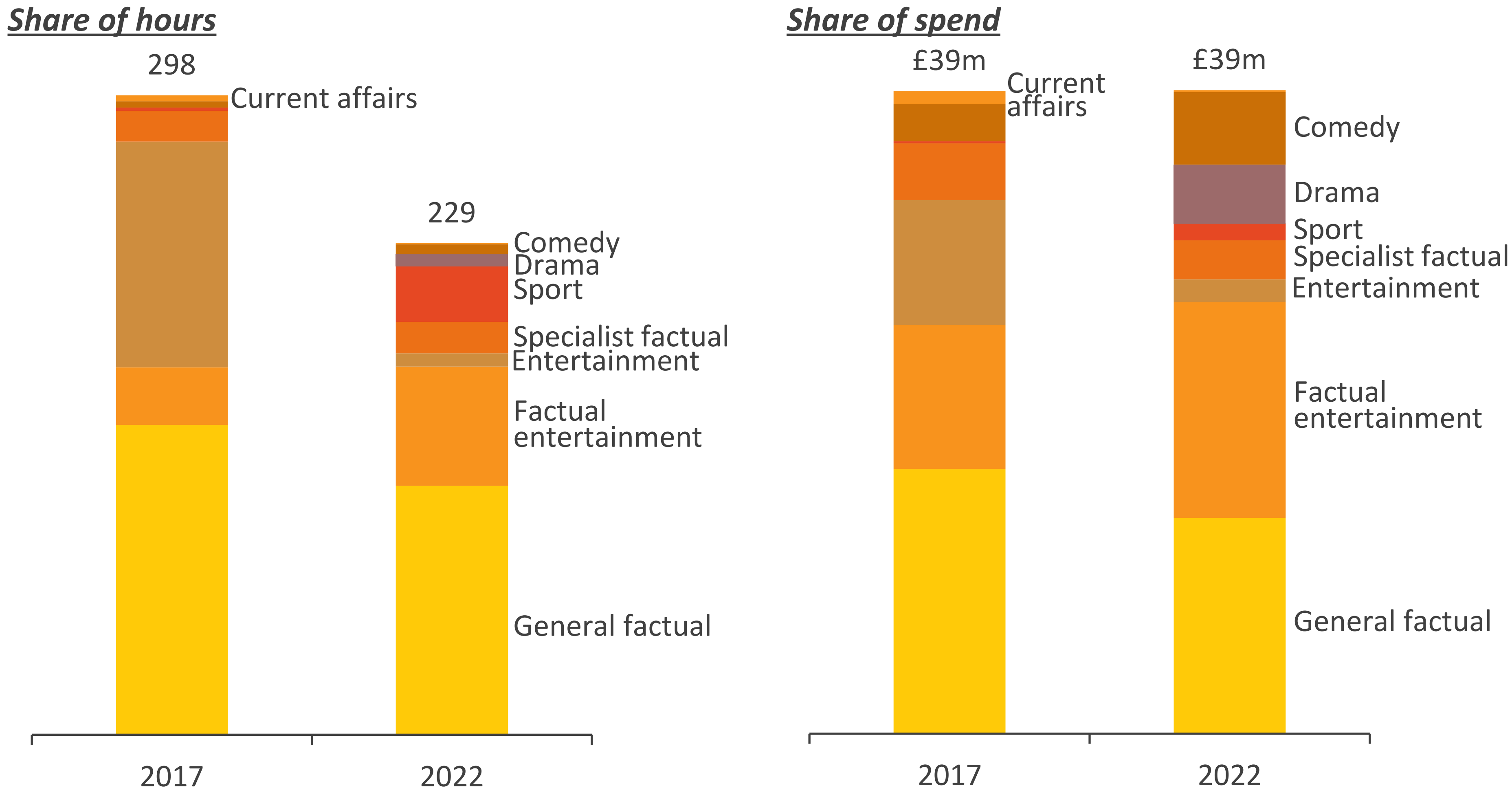
Note: **Estimated as Channel 4 stopped reporting actuals in 2022. Qualifying production refers to first-run originations and excludes news. England includes London*
Source: *Channel 4 annual reports, Ofcom PSB compliance reports, Oliver & Ohlbaum analysis*

Channel 4 production in the Nations has changed significantly since 2017…

Hours produced in the Nations has decreased since 2017, while topline spend is unchanged. There's been a decline in low-cost entertainment programming, and a shift to a more expensive genre mix, including drama and comedy

Share of Channel 4 main channel qualifying programmes made outside England, by genre, 2017 and 2022

%, £m



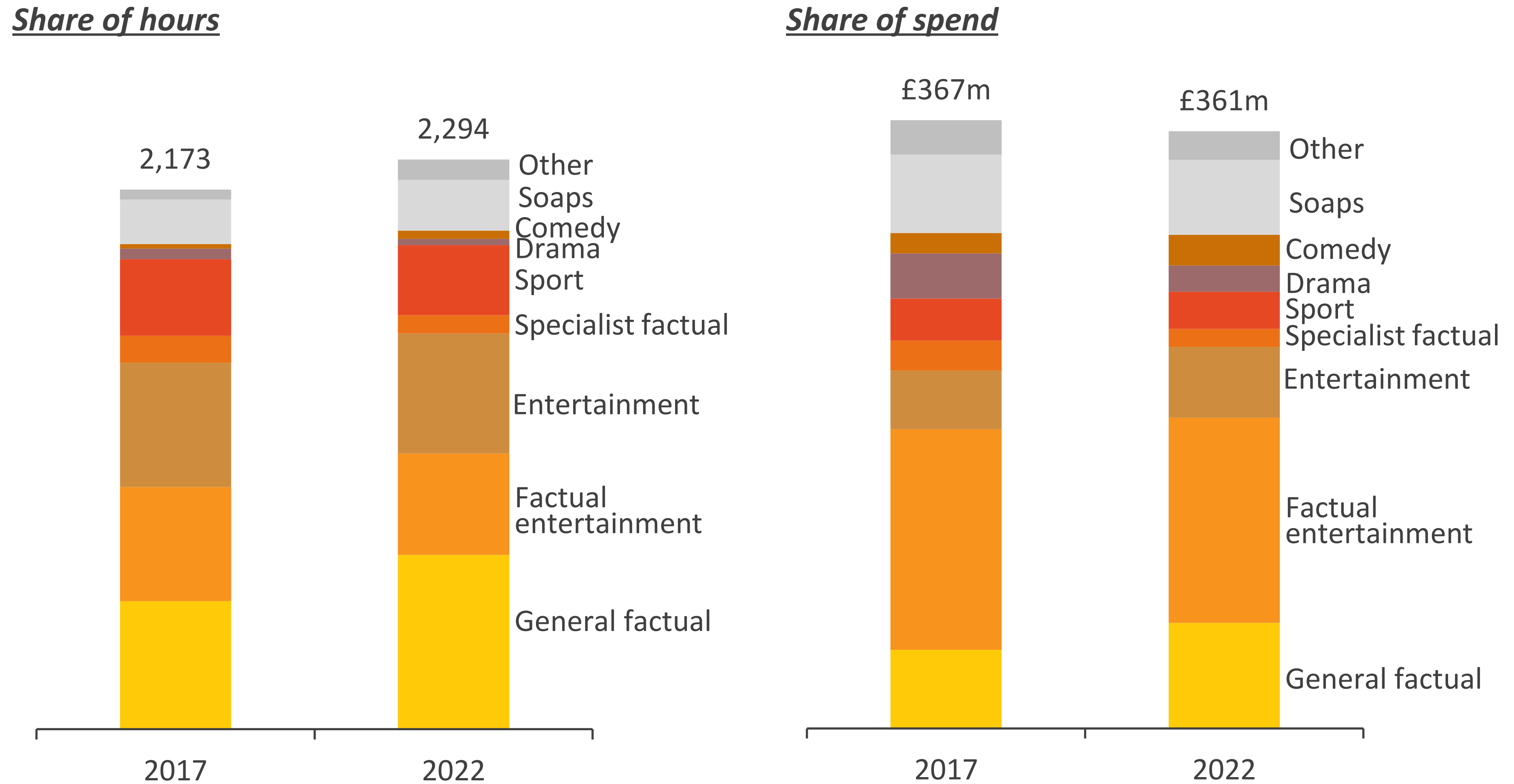
Note: Qualifying programmes refer to first-run originations and excludes news
Source: Channel 4 annual reports, Ofcom PSB compliance reports, Oliver & Ohlbaum analysis

…while production in England has remained largely unchanged

Hours and spend on production in England for Channel 4 main channel, and the genre distribution within them remain similar over time, though the share of scripted content has declined slightly

Share of Channel 4 main channel qualifying programmes made in England, by genre, 2017 and 2022

%, £m



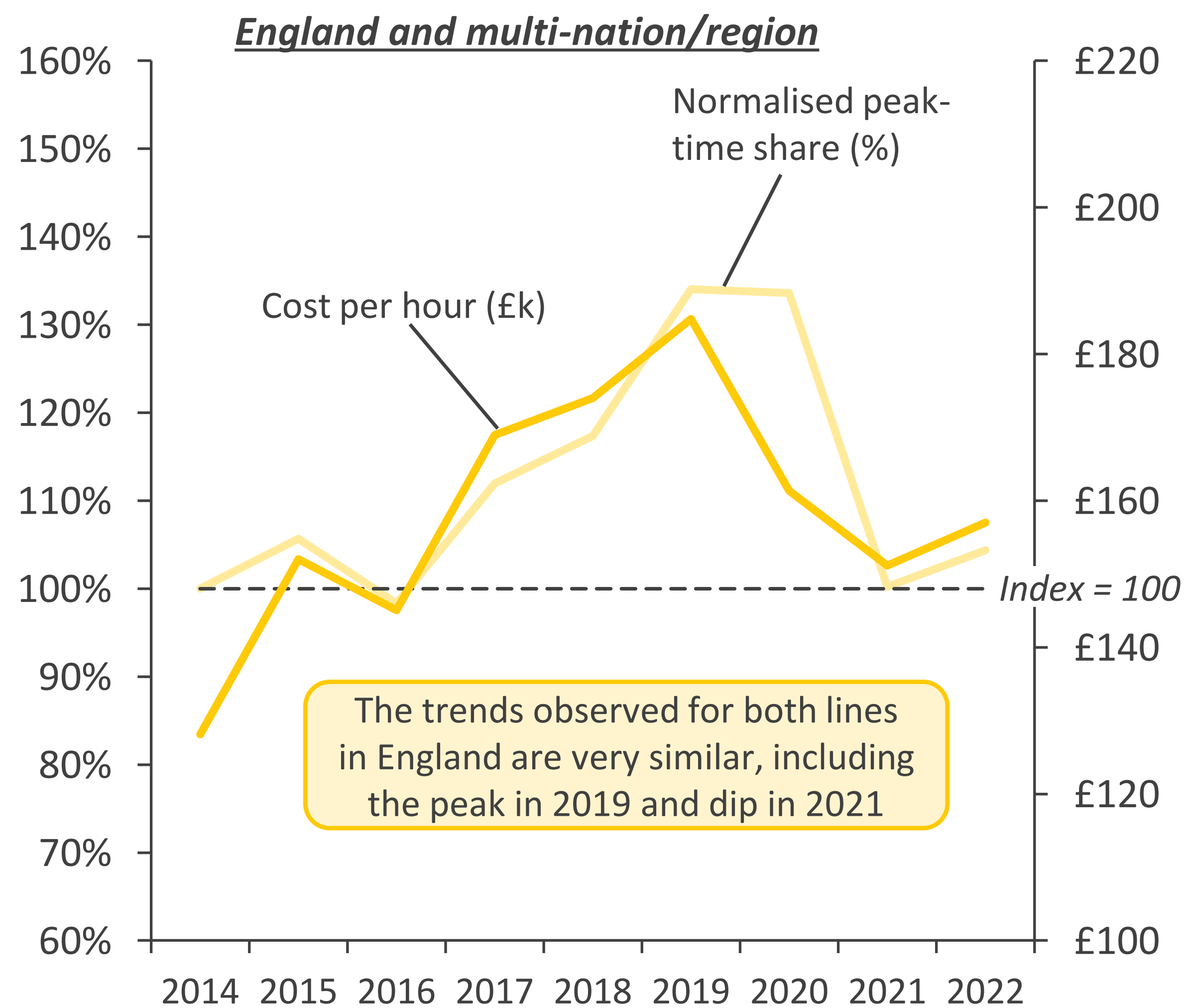
Note: Qualifying programmes refer to first-run originations and excludes news
Source: Channel 4 annual reports, Ofcom PSB compliance reports, Oliver & Ohlbaum analysis

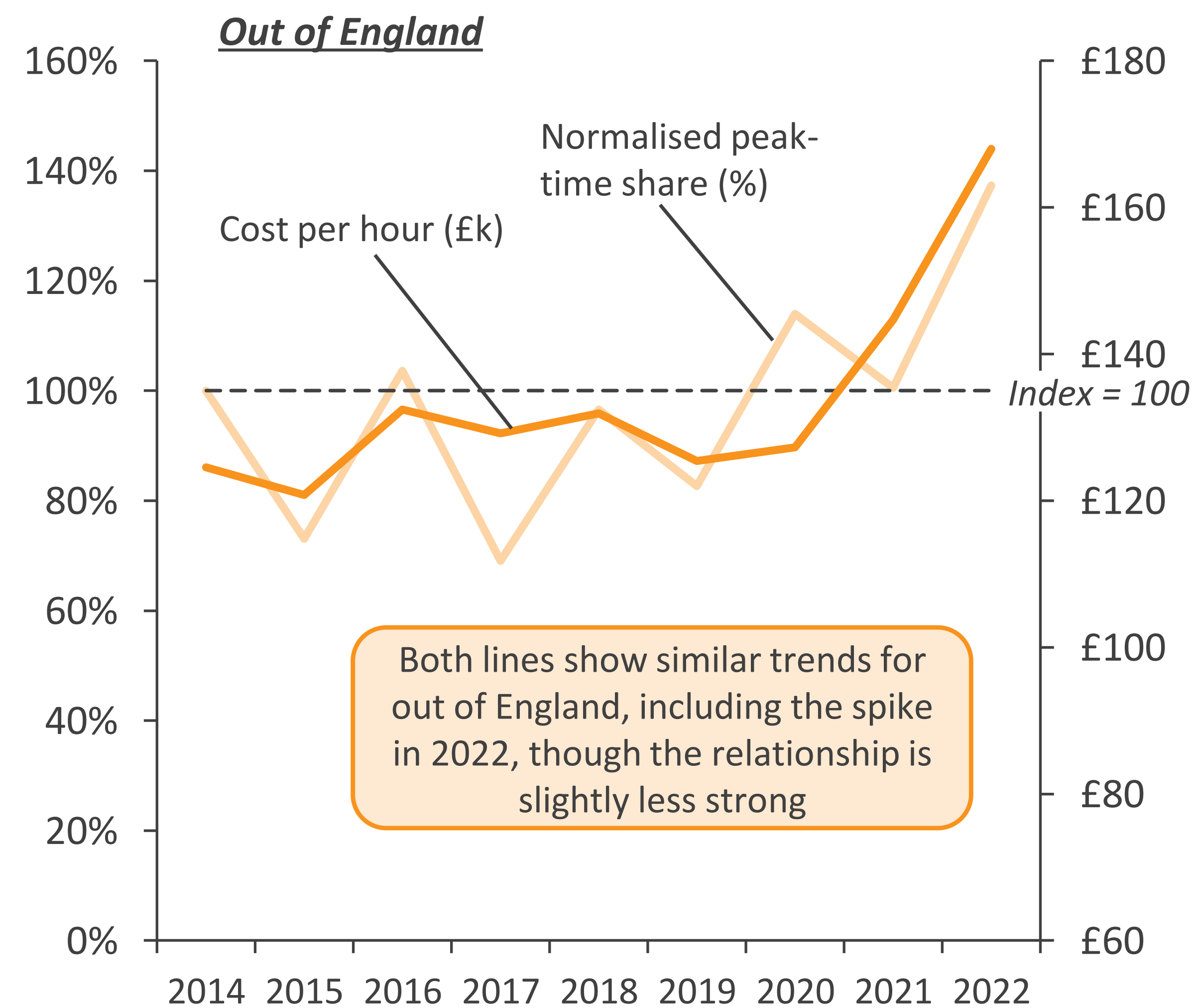
Increasing peak-time production has driven up average costs in the Nations

The changing share of production that was peak-time programming has had a greater impact on the average cost per programme hour made outside England than cost inflation or macro-economic factors

Share of Channel 4 qualifying programme hours broadcast during peak-time, indexed from 2014, and the average cost per qualifying programme hour, 2014-2022

Index = 100 in 2014, £k





Note: Peak-time is 1800 to 2230. Qualifying production refers to first-run originations and excludes news. England includes London

Source: Channel 4 annual reports, Ofcom PSB compliance reports, Oliver & Ohlbaum analysis

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Does Ofcom accurately estimate the impact of introducing a 16% MoE quota for C4?

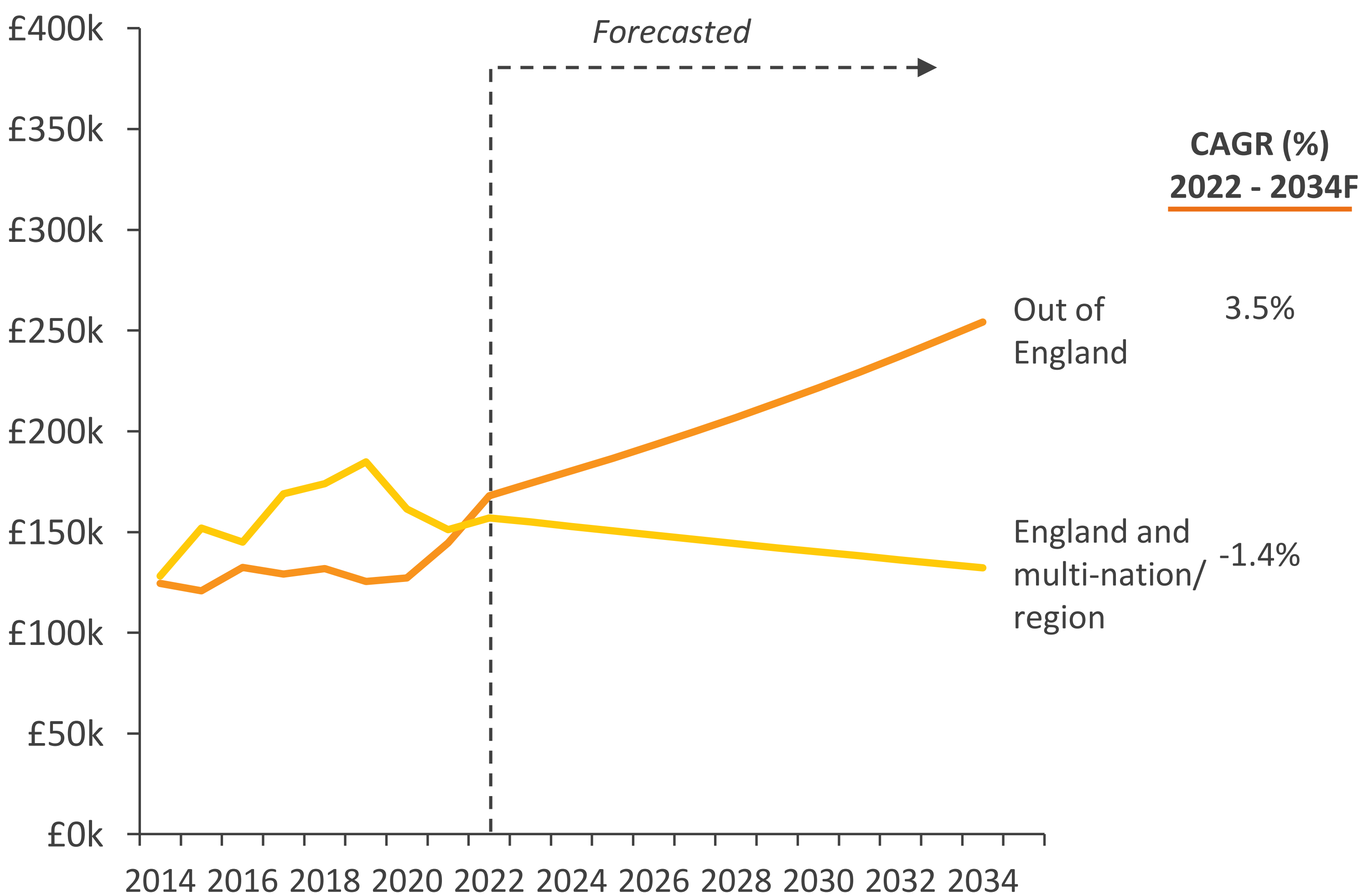
We reproduced and interrogated Ofcom's modelling of the financial impact. Ofcom's approach to the modelling has several limitations, which affect the outputs. We think the financial burden on C4C would be less than Ofcom estimates

- **The core variable in Ofcom's model was the average cost per programme hour:**
  - Ofcom's model uses forecast average cost per programme hour in the Nations compared to England, multiplied by the number of hours produced in and out of England, to get total origination spend in a year
  - Using Ofcom's approach, we estimate increasing the quota would cost C4C an additional £136m over 10 years
- **There are several elements of Ofcom's modelling that we would refine:**
  - Ofcom uses historic CAGRs for forecasting how the average cost per hour of Nations programming will evolve over time
  - Using historic CAGRs 'bakes in' historic changes in the genre mix to the forecast, despite the fact that recent changes are unlikely to be repeated, and despite Ofcom's assertion that its analysis retains the genre mix
  - Ofcom's approach ignores the need for each Nation to deliver against individual quotas
- **We think the financial burden on C4C would be less than Ofcom estimates:**
  - We believe Ofcom's approach to the modelling has several significant limitations which affect the outputs, and as such we cannot be confident in its estimate for the increased financial burden
  - In particular, the divergence in average cost per hour in the Nations and in England does not make sense, and we believe the estimated financial impact seems unrealistically high
  - A more detailed analysis could be conducted to unpick the drivers and produce a more realistic estimate

The core variable in Ofcom's model was the average cost per programme hour

Ofcom's model was based on its forecast of the average cost per programme hour in the Nations compared to England. We have reproduced its forecast as part of our reproduction of its modelling

Average cost per programme hour for qualifying production on Channel 4 main channel, by region allocation, 2014-2034F
£k



Ofcom modelled the financial impact of an increase of the out of England production quota from 9% up to 16%, on the basis of several key assumptions:

1. Each additional hour produced in the Nations would replace one hour produced in England
2. The same genre mix for each Nation's content production would be maintained across all years
3. Production costs will evolve with reference to recent changes (see chart to left)

We understand Ofcom used forecast rates post 2022 equal to CAGRs for the period 2017-2022 (excluding Northern Ireland from the *Out of England* CAGR due to it being an outlier*)

*Note: Qualifying production refers to first-run originations and excludes news. England includes London. *2017-22 CAGR including Northern Ireland was 5.4%*
Source: Ofcom Channel 4 licence renewal consultation document, Channel 4 annual reports, Ofcom PSB compliance reports, Oliver & Ohlbaum analysis

We had to make several of our own assumptions to replicate Ofcom's modelling

We repeated Ofcom's modelling as described in the consultation document, using some additional assumptions and estimates for figures that are not publicly available

- To test the impact of raising the quota, we modelled the two scenarios as follows:
  1. **Base case scenario:** the status quo, with the MoE quota held at 9% for the forecast period. For the purposes of the model, we assumed that performance against the hours quota will remain at 2022's level of 9.1% (representing the latest commissioning behaviour), which in practice also delivers a spend of at least 9% of the total for all years of the forecast
  2. **Alternative scenario:** the quota is increased to the BBC's level of 16%. In practice, raising the hours quota to 16% means that performance against the spend quota is beyond 16% for the forecast period. We assumed that the quota becomes enforceable from the start of the licence period in 2025, and that compliance with the hours quota does not increase beyond 16% for the duration of the 10-year period
- Assuming that the total number of annual qualifying hours is constant over the forecast period, we applied these percentages to our estimate for 2022's annual hours of first-run originations for Channel 4 main channel to give the number of hours produced in England and outside of England each year. These hours were then multiplied by the respective cost per hour each year, as outlined in the chart on the previous slide
- Neither we, nor Ofcom, have made assumptions on the impact of C4C's shift to a digital-first commissioning strategy. However, as explored in Section 2, historically the Nations have been able to respond to any changes in demand for different genres
- Ofcom has assumed the raised quota is implemented immediately at the start of the licence period. We think this is unlikely given previous precedent; notice of the previous increase to 9% in 2020 was given 6 years prior in 2014

Source: Ofcom Channel 4 licence renewal consultation document, Oliver & Ohlbaum analysis

Ofcom stated that raising the MoE quota could challenge C4C's sustainability

Our forecast, using our understanding of Ofcom's modelling approach, would mean that raising the Made Outside England quota from 9 per cent to 16 per cent would cost C4C an additional £136m over 10 years

Forecasted spend on Channel 4 PSB first-run originations, modelled as described by Ofcom, 2025-2034
£m

Base case forecast (9% out of England quota)

	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Nations	£43m	£44m	£46m	£47m	£49m	£51m	£53m	£54m	£56m	£58m
England	£345m	£341m	£336m	£331m	£326m	£321m	£317m	£312m	£308m	£304m
Total	**£388m**	**£385m**	**£381m**	**£378m**	**£375m**	**£372m**	**£369m**	**£367m**	**£364m**	**£362m**

Alternative case forecast (16% out of England quota)

Nations	£75m	£78m	£81m	£84m	£86m	£89m	£93m	£96m	£99m	£103m
England	£319m	£315m	£310m	£306m	£301m	£297m	£293m	£289m	£284m	£280m
Total	**£395m**	**£393m**	**£391m**	**£389m**	**£388m**	**£386m**	**£385m**	**£384m**	**£384m**	**£383m**

Increase in total spend

Total	**£6m**	**£8m**	**£9m**	**£11m**	**£13m**	**£14m**	**£16m**	**£18m**	**£19m**	**£21m**

Cumulative increase in content production costs over 10 years: **£136m**

While the public version of Ofcom's document redacts the 10-year cumulative increase in costs, it states that the figure "could challenge the overall sustainability of C4C, based on the current licence period's total surplus of £142m"; our figure of £136m arguably would do so

Note: Qualifying production refers to first-run originations and excludes news. England includes London.
Source: Ofcom Channel 4 licence renewal consultation document, Channel 4 annual reports, Ofcom PSB compliance reports, Oliver & Ohlbaum analysis

There are several elements of Ofcom's modelling that could be refined (1/2)

Because there are a number of features that could be refined, we cannot be confident in the estimate for the increased financial burden on C4C under the raised quota

Overview

- The key input to Ofcom's modelling is a forecast of the average cost per hour of programming made in England and in the Nations. This is based on CAGRs between 2017 and 2022, which are then applied to each 2022 data point and extrapolated to 2034
- There is no direct consideration of the main factors driving the change in average cost per hour; genre mix and share of peak-time programming, rather than content cost inflation or other macro-economic factors
- The increase of the average cost per hour in the Nations and decrease in England, i.e. the forecasted divergence between the two lines on slide 27, is driving Ofcom's estimate for the financial impact. This divergence does not make sense, so there are reasons to believe that the estimated financial impact is unrealistically high

Use of CAGRs

The CAGRs reflect a change in the genre mix, so Ofcom is not comparing like with like between years

- The Nations' relatively high average cost per hour in 2022 reflects the recent increase in the share of high value scripted content hours produced in the Nations (including Scotland and Wales; Ofcom excludes N Ireland from its growth rate calculation)
    - Conversely, the share of hours produced in England that are high value scripted content is lower in 2022 than 2017, driving the average cost per hour of programming in England down
- Please see slides 22 and 23 for more information about the changes in genre mix, which is the real driver of the changing content cost – i.e. Ofcom's model does not compare like with like

There are several elements of Ofcom's modelling that could be refined (2/2)

Because there are a number of features that could be refined, we cannot be confident in the estimate for the increased financial burden on C4C under the raised quota

Use of CAGRs (cont.)

It is not realistic to expect the recent changes in genre mix to continue

- Ofcom's model inadvertently assumes that the increase in scripted content in the Nations and the decrease in England will continue each year to 2034
- This is unlikely and contradicts Ofcom's stated assumption that the same genre mix for each Nation's content production is maintained across all years of the forecast
- Furthermore, the recent step change also means Ofcom has applied the inflated growth rate to a particularly high starting point

Genre assumptions

- Ofcom does not make any assumptions about the content genres that would likely transfer from England to the Nations
- By assuming the Nation's genre mix is maintained (albeit contradicted by its CAGR approach which 'bakes in a change in genre mix' in each Nation), Ofcom implies that C4's overall genre mix will transition towards that seen in the Nations, as programming moves out of England

Individual Nations modelling

- Ofcom does not model each Nation separately, and so while the total hours would reach the 16% quota, not all Nations would be compliant with their individual quotas. The forecast would retain 2022's distribution

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Would raising the MoL quota to 50% make a difference to spend outside of London?

We estimate that C4's voluntary commitment protected £70m of MoL spend in 2022. Channel 4 increased its share of hours MoL to reach its spend target two years early in 2021

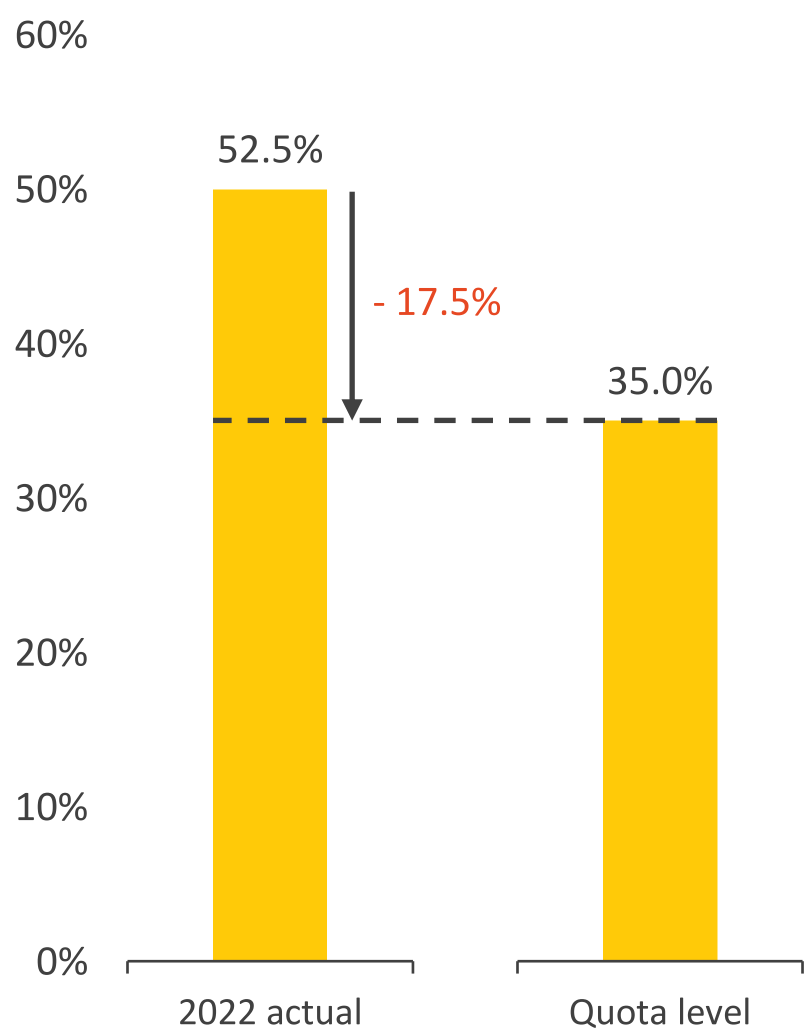
- **Ofcom states that:**
  - "If C4C made the maximum permitted reduction of spend on programming outside London on Channel 4, back to the level of its 35% quota, this would have resulted in a 6.5% drop in overall PSB qualifying spending outside London compared to actual levels of spend in 2022".
  - "This suggests that any more minor fluctuation in the proportion of Channel 4's qualifying spend below its current levels is unlikely to have a significant impact on overall PSB spend outside London"
- **What we did:** We tested whether raising the MOL quota to match C4's voluntary commitment (so that it cannot drop back) would make a meaningful difference to overall PSB spend outside London, by estimating the value of the additional Channel 4 spending.
- **We estimate C4's voluntary commitment protected £70m of MoL spend in 2022:** Should Channel 4's spend in 2022 have been at quota levels rather than its commitment of 50 per cent, we estimate that its spend outside London would have been £70m lower, assuming that there would have been no topline change in qualifying spend in this scenario

We estimate C4's voluntary MoL commitment protected £70m of spend in 2022

Should Channel 4's spend in 2022 been at quota levels rather than its commitment of 50 per cent, we estimate that its spend outside London would have been £70m lower, assuming that there would have been no change to the total

Share of Channel 4 qualifying spend on production outside London

%



	Share of qualifying spend	Corresponding spend, 2022*
Total	100%	£399m
Out of London 2022 actual	52.5%	£210m
Minimum out of London	35.0%	£140m

Annual value loss to out of London production: **£70m**

- Channel 4's total origination spend was not reported in 2022 and so was estimated and calibrated using a range of sources, including Ofcom's consultation document, Channel 4's Annual Report and Ofcom's PSB Compliance reports
- For this calculation, we assumed that there would have been no topline change in qualifying spend in this scenario

*Note: *Estimated as Channel 4 stopped reporting actuals in 2022. Qualifying spend refers to first-run originations and excludes news*
Source: Ofcom PSB annual reports

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What is the rationale for the BBC's MoE quotas and how has it responded?

Network spend targets for the Nations were set by the BBC in 2008, devised to reflect Scotland, Wales and Northern Ireland's share of the UK population. The BBC's targets for 2016 were instrumental in increasing qualifying spend in the Nations up to the levels seen today

What is the rationale for the BBC's Made Outside England quotas?

- **BBC Nations & Regions production requirements have changed over time:** Internal targets for production in the Nations were set by the BBC in 2008, devised to reflect Scotland, Wales and Northern Ireland's share of the UK population. These evolved into full quotas enforceable by Ofcom in 2018

How has the BBC's commissioning evolved since the quotas were introduced?

- **BBC increased hours of MoE production over 8 years to meet its 2016 spend targets:** The BBC's targets for 2016 were instrumental in increasing qualifying spend in the Nations up to the levels seen today. Ofcom's quotas have held performance at similar levels since it took over as regulator in 2018

Does the BBC rely on in-house production to meet the quotas?

- **BBC in-house production is becoming less important for its MoE programming:** The BBC has increased the total number of companies it has used for production outside England, driven largely by an increase in the number of QIs used. The number of MoE hours produced in-house has decreased, while hours produced by QIs has increased

BBC Nations production requirements have changed over time

Network spend targets for the Nations were set by the BBC in 2008, devised to reflect Scotland, Wales and Northern Ireland's share of the UK population. These evolved into Nations hours and spend quotas enforceable by Ofcom

BBC spend targets

In 2008, BBC announced its aim to increase the share of network production made outside of England, with a target of 17% of spend by 2016, and an intermediate target of 12% in 2012

- Within the 17%, there were individual spend targets of 9%, 5% and 3% for Scotland, Wales and Northern Ireland
- The targets were devised to reflect Scotland, Wales and Northern Ireland's share of the UK population (8.4%, 4.9% and 2.9% respectively in 2008)
- (A target of 33% of network spend was also set for the English Regions outside of London)

Ofcom hours and spend quotas

From 2018, Ofcom introduced hours and spend quotas for BBC network production in the Nations, using the BBC's internal spend targets as a basis

- Scotland was set a quota of 8% of both hours and spend
- Wales was set a quota of 5% of spend and 4% of hours, which was increased to 5% of hours from 2022
- Northern Ireland was set a quota of 3% of spend and 2% of hours, which was increased to 3% of hours from 2022
- (The England Regions outside the M25 were also set a quota - 30% of hours and 28% of spend, which was increased to 30% of spend from 2020)

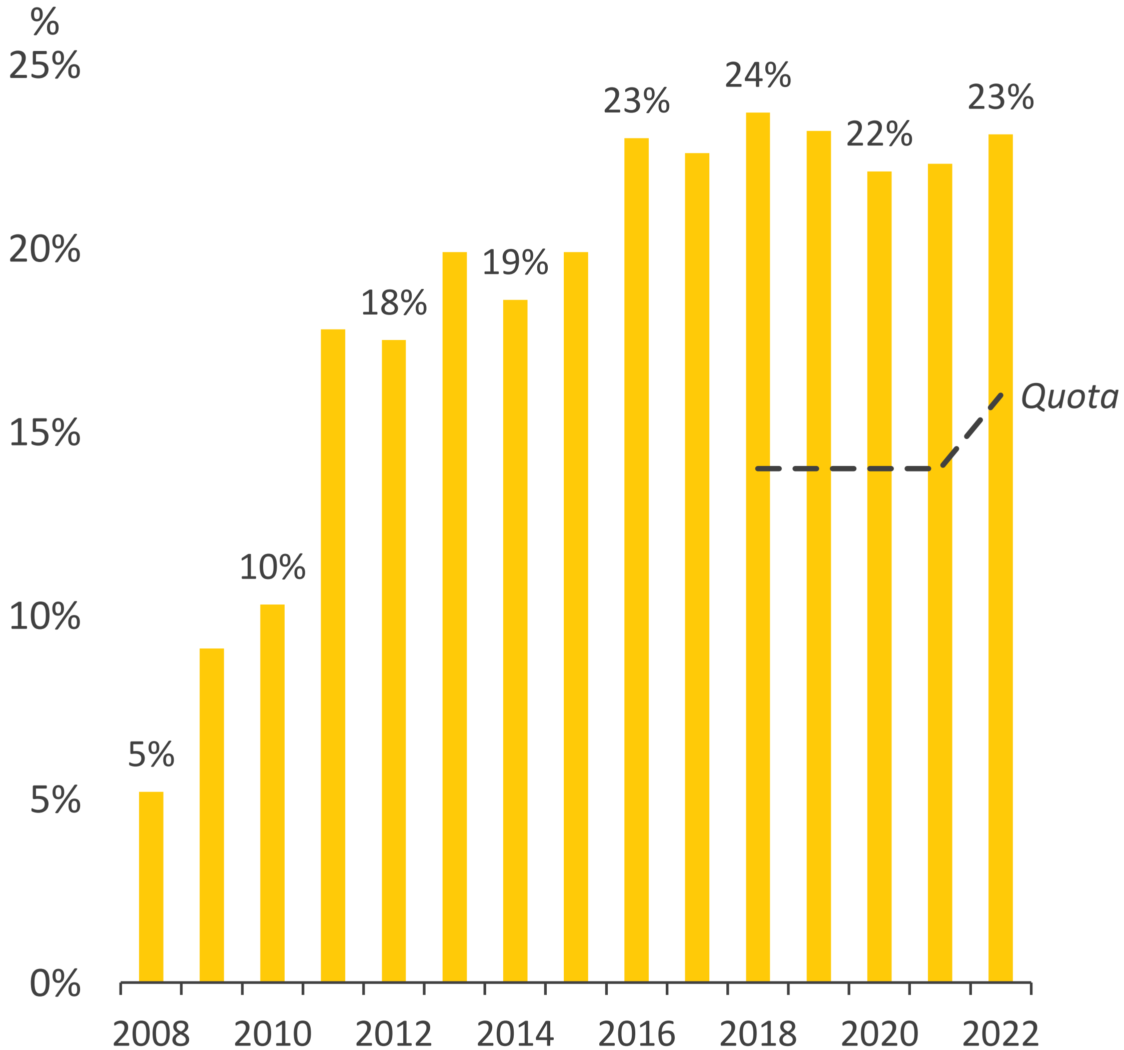
The quotas are measured within each calendar year, and qualifying network production is defined as first-run programmes commissioned for broadcast on BBC One, BBC Two or the BBC Portfolio (BBC Three, BBC Four, CBBC, CBeebies, BBC News and BBC Parliament), and excludes news programmes

Source: BBC Annual Report 2007/2008, Operating licence for the BBC's UK Public Services, ONS

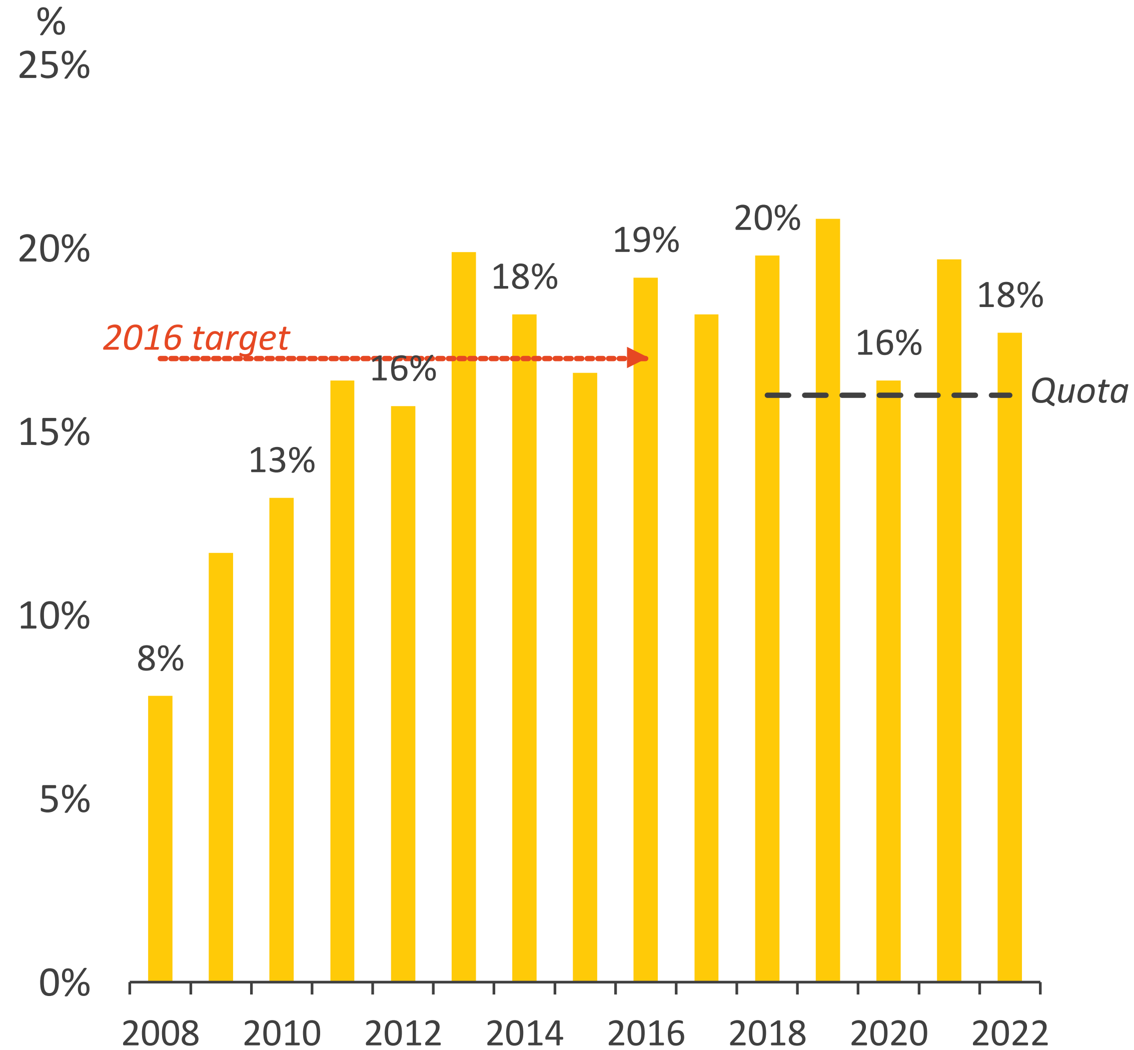
BBC increased hours of MoE production over 8 years to meet its 2016 spend targets

The BBC's 2016 targets, which were set in 2008, were followed by increasing qualifying spend in the Nations. Performance has remained at similar levels since Ofcom introduced its quotas in 2018 (with a dip in spend around Covid)

Share of BBC total qualifying hours allocated to production in the Nations, 2008-2022



Share of BBC total qualifying spend allocated to production in the Nations, 2008-2022

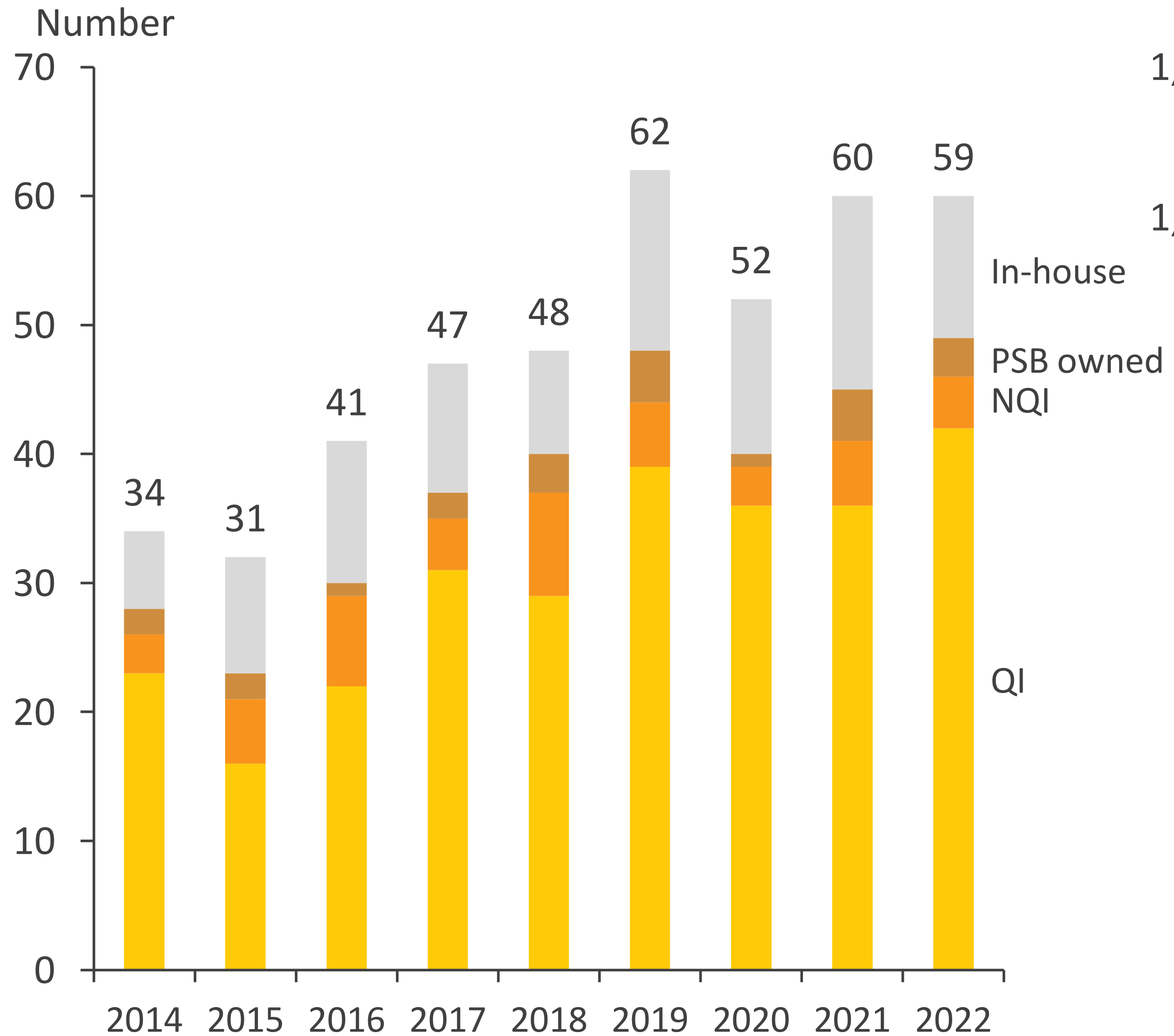


Note: Qualifying production refers to first-run originations and excludes news, broadcast on BBC One, BBC Two and the BBC Portfolio channels
Source: Ofcom PSB Compliance reports

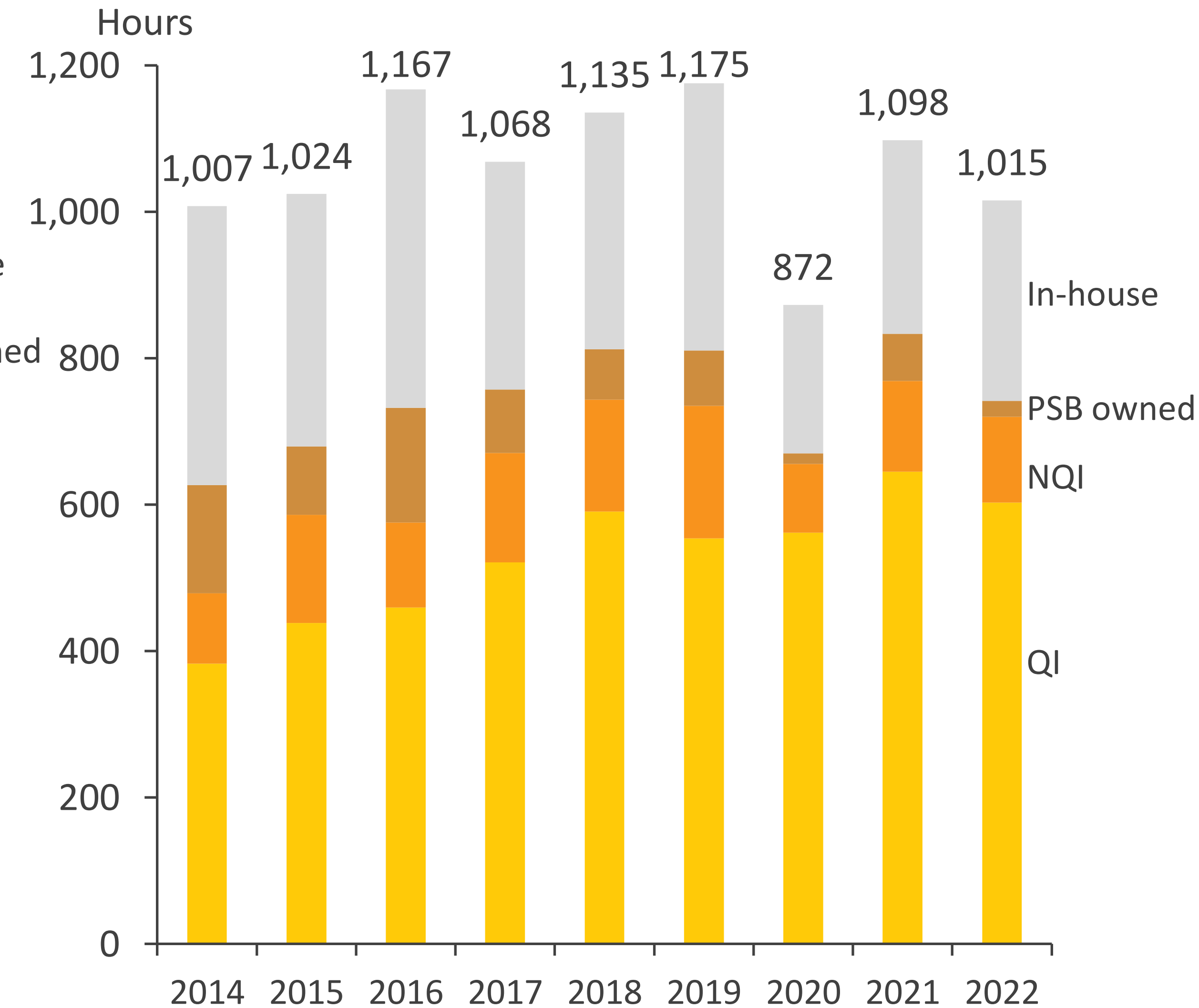
BBC is relying less on in-house production for MoE, and increasing use of QIs

The BBC has increased the total number of companies used for Nations productions over time, especially QIs. The number of MoE hours produced in-house has decreased, while hours produced by QIs has increased

Production companies commissioned for production outside of England on BBC One or BBC Two, 2014-2022



Qualifying hours produced outside of England on BBC One or BBC Two, 2014-2022



Note: Qualifying production only. Production companies include labels owned by larger groups. PSB owned are external labels owned 25% or more by another UK PSB, or 50% or more by multiple

Source: Ofcom Made Outside London registers, Oliver & Ohlbaum Producer Database

We considered the policy context for the Nations quotas

The BBC quotas broadly reflect the Nations' share of population

- Section 264 of the Communications Act 2003 ("the Act") outlines that the PSBs, taken together, should:

  "include what appears to OFCOM to be a sufficient quantity of programmes that reflect the lives and concerns of different communities and cultural interests and traditions within the United Kingdom, and locally in different parts of the United Kingdom."

- As noted in Section 264, it is up to Ofcom to decide what is a "sufficient quantity of programmes". The approach for the BBC is to commission proportionately to each Nation's share of the UK population. When introducing its own targets in 2008, the BBC wanted to 'spread the licence fee more equitably'

- The PSB's, taken together, do not reflect the Nations' share of population in hours or spend

PSB share of qualifying production, by Nation, 2022

%

	Total PSB* share of hours	Total PSB* share of spend	C4 share of hours	C4 share of spend	BBC's quotas
Northern Ireland	1.46%	2.31%	0.36%	1.19%	3.00%
Scotland	7.20%	6.32%	3.32%	4.41%	8.00%
Wales	3.38%	3.37%	5.40%	4.06%	5.00%

- Like the other commercial PSBs, Channel 4 is advertising funded and audiences might vary across the UK. Equally, perceived representativeness might be relevant to viewing. Ofcom's Public Service Media Tracker found that 30% of viewers in Wales, 28% of viewers in Scotland, 26% of viewers in Northern Ireland and 34% viewers in England say Channel 4 channels provide "programmes that feature my region/country" well

*Note: Qualifying production refers to first-run originations and excludes news. *PSB channels are BBC One, BBC Two, ITV, Channel 4, Channel 5 and BBC Portfolio channels (BBC Three, BBC Four, CBBC, CBeebies, BBC News and BBC Parliament)*

Source: Ofcom PSB Compliance reports, Ofcom Public Service Media Tracker. Speech by Jana Bennett, Director, BBC Vision to the Royal Television Society, 2008