Call for Input: Review of **Broadcast Regulation.**

Submission to Ofcom

January 2026

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. Pact is a strong supporter of the UK Public Service Broadcasting (PSB) system, which in the UK is a key intervention in the UK broadcasting ecology and plays a significant role for creatives, producers and audiences alike. It underpins a wider creative economy and plays a strong part in providing high quality UK content which is beneficial to audiences across the UK.

3. The UK independent television sector is one of the biggest in the world, with revenues of £3.66 billion in 2024[1] with production sector revenues growing by 150% since 2003.[2] Large parts of the resulting revenues are invested back into the development and production of UK content. The sector is a key part of the UK's growth plans as it, along with others in the screen sector, sound recording and music publishing activities industry, saw 8.4% growth in December 2024 offsetting the declines seen in other areas of the service sectors.[3]

4. The success of the UK independent sector is underpinned by an effective light-touch regulatory regime. The requirement in the 2003 Communications Act for Ofcom to produce guidance for PSBs on their commissioning Codes of Practice and the PSB quotas, underpins a successful and vibrant sector with a diverse supply base. The framework affords protections for independent producers against the market power of the PSBs, and it requires the PSBs to seek agreement from rights holders when they wish to use additional rights.

5. For further information, please contact Pact's Director of Policy, Emily Oyama at emily@pact.co.uk or on 020 7380 8232

[1] Pact Census Independent Production Sector Financial Census and Survey 2025, by Oliver & Ohlbaum Associates Limited, September 2025
[2] Celebrating 20 years of Terms of Trade, A report for Pact by Oliver & Ohlbaum Associates Limited, January 2024
[3] GDP monthly estimate, UK - Office for National Statistics, January 2025

Overview.

Pact welcomes the opportunity to respond to Ofcom's call for input on the review of broadcast regulation. Public Service Broadcasting and Public Service Media in the UK are a hugely important public asset which delivers economic, social, cultural and citizen benefits to viewers.

The UK's TV and film sector is built on a mixed ecology with both public and private broadcasters, on-demand services and producers of all sizes operating in the market. The PSBs and the PSB system including the current regulatory framework play a central part to the creation of a broadcasting ecology in the UK which is internationally recognised as one of the most dynamic, innovative, creative and diverse in the world.

For the UK production sector the crucial interventions of broadcast regulation include the Terms of Trade (ToT) and the PSB quotas.

The ToT establishes standard terms which ensures that a specific share of the secondary exploitation gains from commissioning programmes remains with producers. Ownership of the IP is a long-term asset value for the company, critically it can be used to attract capital and investment back into the UK. By attracting external finance by selling or pre-selling their IP, independent producers can take risks and innovate, recouping on development funding invested by the production company into specific projects. Whilst the quotas guarantee demand for content and, therefore, a minimum revenue stream thereby creating a certain degree of long-term predictability.

The current PSB institutions – the BBC, Channel 4, ITV plc, STV group plc, UTV Media plc, S4C and Channel 5 – remain by far the biggest investors in original non-sport UK content, with the PSB channels accounting for 83% of UK revenues.[4] They offer a solid foundation of PSB commissioning which give opportunities to all sizes of producers across the full range of genres on different budget levels. For example, in 2023, there were 1391 commissions by the main PSB channels compared to just 30 SVoD commissions in the UK.[5] As a result, UK demand remains highly concentrated within PSB institutions, making interventions such as ToT and independent production quotas essential to ensuring that the significant buyer power exercised by PSBs within the UK content market supports a diverse, competitive and sustainable supply base.

The independent production sector is currently facing a period of structural change with the PSBs adapting their commissioning strategies to focus on 'fewer, bigger, better' productions that can drive viewing to their VOD services and attract audiences. These strategies have been implemented to try to stem a sustained decline in linear viewing in favour of VOD services and other platforms such as *YouTube* and the increasing popularity of streaming services. This has also coincided with reduced licence fees; declining ad spend and sustained cost inflation across the sector all impacting both commissioning and producer budgets.

This sustained inflation and reduced commissioning budgets has reduced margins and required producers to raise more deficit financing to make a programme. This has been vital to PSBs and ultimately audiences, because despite reducing budgets and a challenging market independent producers been able to respond by bringing just under £640m in third party finance which includes deficit financing for PSB programming by licensing their rights to raise finance.[6] Removing or

[4] Pact Census 2025
[5] Changing UK Content Investment, Oliver& Ohlbaum Associates 2025
[6] Ofcom CMR 2025

weakening the ToT puts this investment at risk. It is unclear where the funds would come from to cover this finance source if any attempts were made to weaken the Terms of Trade framework.

A weakened ToT framework or any changes to the quotas would damage the ability for producers to invest in their companies and close finance for projects, as well as incentives for entering the market. The PSBs are not in a position to replace this funding source and, depending on the options considered, the incentives for distributors and other third party financiers would also be undermined. In research we commissioned last year it estimated that £365 million per year of producer revenues would be at risk from 2026 vs the expectation under the status quo – and this impact would carry forward into future years. For this reason, the dilution of the ToT must be ruled out as an option.

A diversity of supply is key towards supporting audiences having ready access to UK content that reflects the diversity of the UK. In a time of market strain a framework that continues the ToT in its existing form along with other obligations that the PSBs currently meet is needed more than ever in terms of providing an anchor for a range of UK producers to succeed.

Current UK Production Sector Landscape.

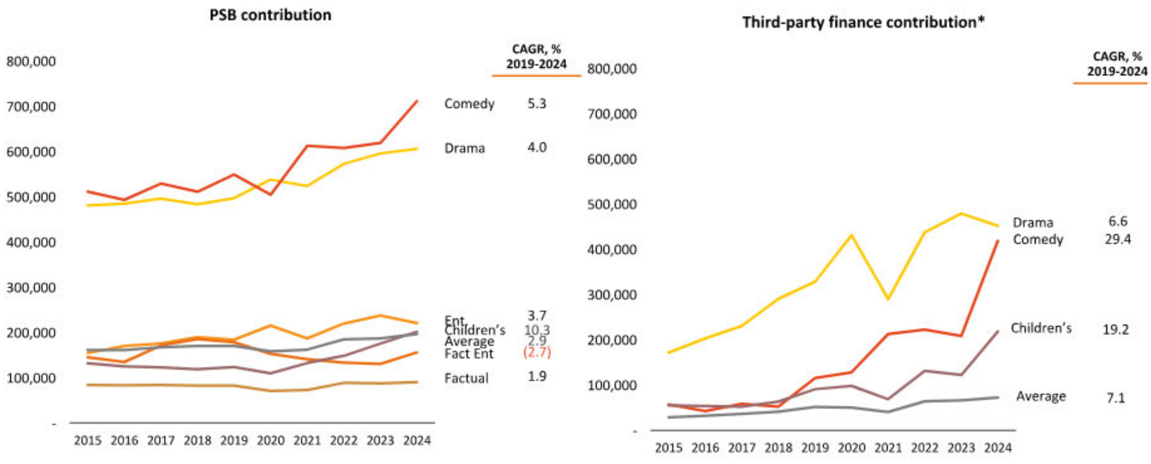
1.1 The sector and wider market have undergone substantial changes in the last few years. With changing viewing habits, reductions in advertising spend, inflation all impacting the PSBs and the production sector.

1.2 The slowdown in commissioning from the domestic broadcasters and international broadcasters in response to the ongoing market changes is challenging programme financing, making it increasingly difficult for producers. In response to the ongoing market changes, we commissioned Oliver & Ohlbaum Associates to undertake a comprehensive review of programme financing across all genres. Which found that the proportion of projects both editorially and financially greenlit was 40% in 2024 but is expected to be just 20% in 2026 (as of July 2025). Nearly half of projects scheduled for 2026 currently have no editorial or financial backing at all (compared to just 21% in July 2023) and almost one fifth are editorially greenlit but lack financial backing.[7] If productions cannot find the necessary finance they may have to scale back editorially, perhaps reducing the quality of a project or the number of episodes. Commissioning high quality content that resonates with viewers is vital for the PSBs, if they are to continue to retain and attract viewers.

1.3 Production financing can often be complex, particularly for higher cost genres such as high-end drama, which requires multiple supplementary finance sources and now even lower-cost unscripted programming will also rely on some degree of deficit financing on top of the broadcaster's licence fee. The cost of production has also increased substantially. The post COVID boom drove up production costs creating increased competition for talent and other resources, driving up the cost. Once the production boom slowed down, costs did not decrease and the wider macroeconomic inflation kept production costs high. **Figure 1.** below sets out the average cost-per-hour (CPH) of production for UK commissions across all genres. All genres, other than factual entertainment, have seen increases in CPH, with children's, comedy and drama seeing substantial increases between 2019 and 2024. The PSBs have been unable to absorb rising costs and producers have increasingly been turning to third party finance to fill gaps in the production budget. However, many third-party sources of finance, such as co-productions, are also coming under increasing pressure as the global market is facing many of the same issues as the UK.

Figure 1.: PSB commissioned content Cost per Hour, by genre, 2015 to 2024

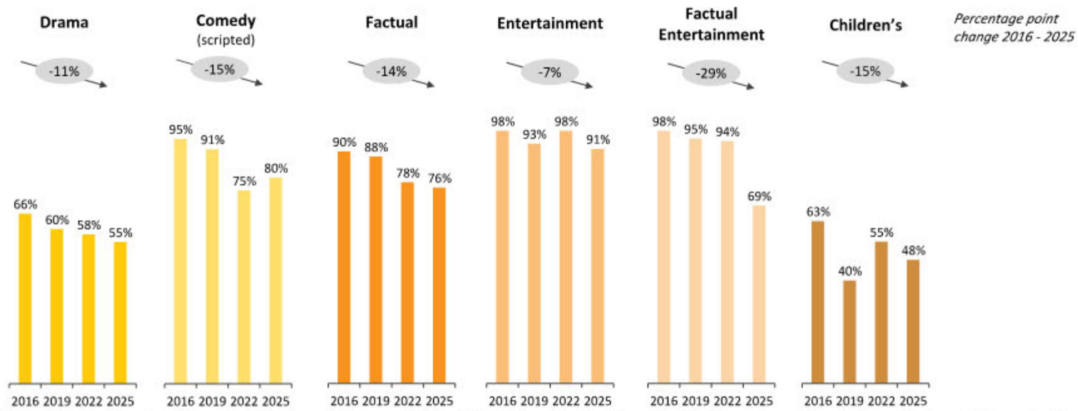
[7] UK Production Finance: The Bigger Picture, Oliver & Ohlbaum Associates, 2026



Note: *Unscripted excluded from third-party finance contribution due to minimal contributions
Source: Ofcom CMR 2025

1.4 Commissioner contributions to the budget are of particular importance to genres which heavily rely on public funding and may not be able to attract the same level of third-party international investment as drama for example. However, the increased cost of production has meant that commissioner contributions are declining as a share of total budgets as seen in **Figure 2. below**. In drama, primary commissioning fees fell from 66% of production budgets in 2016 to 55% in 2025. Comedy fell from over 90% to 80% in 2025 as higher cost drama-comedy (or 'dramedy') became more common. Unscripted, particularly factual entertainment, also saw declines with commissioner contributions falling from 98% to 69% over the same period. Children's programming remains the most exposed, with average commissioner funding falling to 48% of budgets in 2025.[8]

Figure 2.: Primary commissioning fees as a proportion of total production budgets, UK PSB or UK multichannel lead commissioner, average by genre, 2016, 2019, 2022, 2025



Note: Production finance breakdown where the lead commissioner was a UK PSB or UK multichannel. Question: "Approximately what percentage of financing do you typically receive from each of the following sources? Please provide an indicative breakdown for the types of commissioners you worked with in each year." Drama (n=71), Scripted Comedy (n=27), Factual (n=123), Entertainment (n=41), Factual Entertainment (n=55), Children's (n=25)
Source: Oliver & Ohlbaum analysis

1.5 Falling commissioner contributions has meant that producers are increasingly having to deficit finance productions, defer production fees and find other third-party sources of finance (as shown in figure 2. above). While third party finance, including deficit finance, has always been

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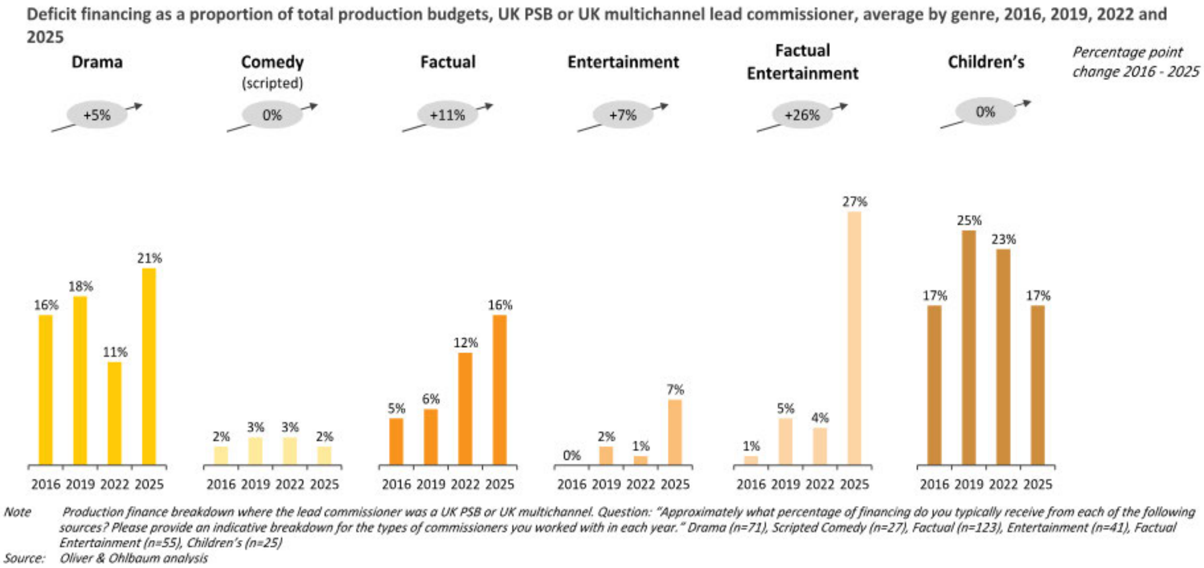
common practice in the sector and allows producers to produce high quality content for the PSBs at minimal cost to the PSBs themselves, the increased cost of production has put further strain on financing and left larger gaps in the production budget to fill. **Figure 3.** below shows that the proportion of producer's deficit finance as a share of total TV production budgets has grown steadily from 2016 to 2025.

Figure 3: Deficit financing as a proportion of total production budgets, UK PSB or UK multichannel lead commissioner, average by genre, 2016, 2019, 2022, 2025



1.6 The unscripted genres (factual, entertainment, factual entertainment) have seen the most substantial increases in deficit financing as a proportion of budgets, with drama also seeing a 5% increase. There has been little increase in deficit financing for children's, however the genre has always had high levels of deficit financing given the regulatory restrictions around children's programming and the difficulties attracting third party financing. Increasing levels of deficit financing as a proportion of total production budgets can put further strain on finances and we have found that producer's ability to recoup is taking longer.

1.7 O&O also looked at the sources of deficit financing and found that producer deficit financing is now coming from a broader and more fragile mix of sources. In 2025, 87% of producers used producer fee deferrals in order to close the production budget. Producer fee deferral means that the producer delays receiving some or all their fee until after the production has been completed and, typically, all other costs have been recouped. This means that if the project does not recoup all of the costs or does not turn a profit, the producer may only receive part of the fee or none at all.[9] 59% of producers who responded to O&O's survey, as part of the Bigger Picture report, said they had used producer equity to close a production budget. This is where the producer invests their own money or uses their ability to licence rights in order to attract further capital into a project. Last year just under £640m of third party finance including deficit financing was still being raised through this finance source with a range of companies being able

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to access the capital, although SMEs or new entrants may find it trickier to raise the finance if they lack a track record with financiers.

1.8 The challenging programme financing market, ongoing structural changes and the financial pressures facing the PSBs are starting to impact on the production sector, where producers may adapt the editorial ambitions of a project or bring in more deficit financing in order to close the gap in finance. Producers are central to the survival of the PSBs through developing new, innovative content for audiences, producing high quality programming at minimal cost to the broadcasters and contributing to local jobs and the wider creative economy, which the PSBs and their own production arms rely on.

Licensing.

The Terms of Trade

2.1 The ToT have been an unparalleled success for the UK TV production sector. It has helped grow the UK's Independent production industry from £1.5 billion to £3.8billion since the Codes were introduced in 2003, representing a 150% increase in revenues.[10] With continuous renewal of production companies and all companies benefitting from the policy legislation. In our recent Census we can clearly see that companies continue to be created and then go onto grow across different budget bands. The system incentivises companies to grow their IP and exploit their assets to their best ability. Change any aspect of this and you will not see the benefits of the system.

2.2 The ToT as a set of regulations were introduced following the Communications Act 2003 which set out the principles that each of the UK's PSBs will apply when agreeing terms for the commissioning of independent productions for their licensed PSB channels. It allows producers to hold on to their intellectual property rights and exploit them however they wish after a certain period of time and with certain conditions which invariably benefit the PSBs (Once the producer is able to exploit their rights, the broadcaster gets a share of net revenue even after the exclusivity has ended, and in some cases for life of copyright.)

2.3 The ToT specify the minimum primary rights to which the PSB acquires a licence as part of a commission and indicative tariffs for those rights. Any other rights (that sit outside the primary licence) are subject to commercial agreement.

2.4 The ability to exploit these rights[11] outside the primary licence has also been key towards production finance. For example, producers often take distribution advances to close finance which are contingent on the distributor being able to sell these rights in certain markets after the period of UK exclusivity. By using the ability to raise finance through the exploitation of rights it has meant producers could raise the level of quality in any given project. This has been particularly crucial over the last ten years given the levels of spending by the PSBs has been flat. Consistently it has brought in 100s of millions of pounds to ensure audiences enjoy high quality programming.

2.5 Prior to 2003 the UK independent production sector was fragmented and relatively unprofitable with revenues declining between 1998 and 2001.[12] Independent producers were being squeezed and unable to share in the risks and rewards of their productions; without healthy margins and the control of rights they had no foundation to attract investment and grow. Under ToT, PSBs reached a negotiated minimum position with UK independent producers on how programme rights would be shared – ToT rebalanced negotiating power, correcting the market failure. Independent producers seized the opportunity, and between 2004 and 2022 domestic

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[11] The rights which sit outside the primary licence include things such as the sale and distribution of the programme outside the UK, sale of the programme format outside the UK and the use of the programme for consumer products such as DVD, merchandising.

[12] Celebrating 20 years of Terms of Trade report, Oliver & Ohlbaum Associates, 2023

revenues grew by 77 per cent, reaching £2.2 billion in 2022, having bounced back following a downturn due to the COVID-19 pandemic.[13] This increased revenue has also benefitted the amount of funding that can go into the R&D of programme making enabling UK independent producers to invest in new ideas that result in new IP for audiences to enjoy.

2.6 Given the important role which they play in this market, independent producers work closely with the PSBs to support them whenever possible in developing and retaining British audiences, thereby enabling them to continue investing in original content.

Recent push for changing the statutory requirements around ToT

2.7 PSBs particularly the BBC and C4 have recently pushed for changes to the commissioning codes of practice that would require reforming statutory requirements on the conditions imposed for the codes of practice. For example, the changes discussed included:

- Requirements linked to providing sufficient clarity about the different categories of rights being acquired, and the duration and exclusivity of rights.
- Or the BBC's proposal to replace wording about different types of uses with a general statement that the exercise of the primary rights should cover 'initial uses,
- or the BBC's comment that it is the Terms of Trade that set out how packages of rights are to be used and exploited not the Guidance.

2.8 ITV has also pushed for 'principal rights' instead of 'time-based windows'. Despite assurances from PSBs (such as ITV) that a change in the framework would not undermine deficit financing model, we consider that significant risks remain. Pact is concerned that this might lead to the removal of the following clauses:

> *(b) that there is what appears to OFCOM to be sufficient clarity, when an independent production is commissioned, about the different categories of rights to broadcast or otherwise to make use of or exploit the commissioned production that are being disposed of;*
>
> *(c)that there is what appears to OFCOM to be sufficient transparency about the amounts to be paid in respect of each category of rights.*
>
> *(d)that what appear to OFCOM to be satisfactory arrangements are made about the duration and exclusivity of those rights.*

2.9 Pact considers the removal of these statutory requirements would seriously damage the clarity that the existing system provides. Pact disagrees with the recent assessment made by many PSBs when it comes to the statutory requirements of the ToT.

PSBs continue to have flexibility with ToT

2.10 PSBs do not currently face difficulties in negotiating the acquisition of rights to meet audience needs and interests. Under the ToT all PSBs have significant video on demand and other uses in the primary window and have evolved with market developments over time. For example, the BBC has unlimited on-demand rights; exclusive for 12-month or 24-month period, depending on the premier channel. Channel 5's primary rights for a 4-year period in the UK and Republic of Ireland include the right to include or licence the programme for inclusion on a video on demand service (including mobile services) via approved video on demand models; Or Channel 4's ToT agreement allows full flexibility to use programmes across its portfolio of channels and

[13] IBID

video-on-demand (VoD) services, including its BVOD platform, within the licence term without negotiating further rights.

2.11 As identified PSBs continue to be a significant commissioner in the UK market and account for many individual commissions in the UK. In 2023, the PSBs commissioned 95 per cent of individual titles commissioned across the PSB main channels and SVOD services.[14]

2.12 Furthermore, the supply side remains highly competitive: several hundred producers of varying size create content for the UK television market. This means broadcasters can easily switch between different producers offering similar content although there does also continue to be considerable specialisation within genres.

2.13 The combined result of buyer power and a highly competitive environment is that independent producers fear losing commissions if they push back on a broadcaster's specific terms – the PSB's proposals will exacerbate this making it more likely for independent producers to accept poor deal terms – because if there is no requirement on the PSB to clarify the initial window this would ultimately lead to bundling. With smaller to medium sized producers in particular finding it harder to turn down bundled deals.

2.14 Independent producers now more than ever need certainty to invest and to take the risks that result in the most innovative programmes. The ToT provide this certainty by giving producers control over their IP. The original rationale for the introduction of the ToT - to counterbalance the PSBs' negotiation power against SMEs and vertical integration of broadcaster production arms, and to secure more independent production outside London remains true today.

Unintended consequences of reforming ToT

2.15 If Ofcom were to reform the statutory requirements of the commissioning codes of practice similar unintended consequences that Pact identified when Ofcom tried to remove the prohibitions on bundling during last summer's consultation on the commissioning codes could arise:

Undercuts producers' bargaining power and stifles SME growth and diversified supply

2.16 The permittance of bundled deals and/or removing the requirement to clarify the category of rights would essentially allow the PSBs to obtain both primary and secondary rights for the same and/or similar price to the primary rights now. This means that distributers would carry out the work entailed in assessing the value of the rights on offer and provide this commercially sensitive information to the PSB who could then pick and choose which programmes to acquire rights without competition. This would undercut the producers' bargaining power and their ability to raise deficit finance against the secondary market, particularly when it comes to rights to sell and distribute internationally which is where many independent producers make a return on their investment. The return on investment is key towards stimulating the growth of small and medium-sized enterprises, promoting creativity and fostering new talent.

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[14] Revised guidance for PSB commissioning Codes of Practice: Responding to Ofcom's proposals, O&O 2025

PSBs paying below the market price for the bundled deal and a lack of transparency over the different types of rights could impact programme quality and the long-term health of the sector

2.17 PSBs paying below the market price for secondary rights could be a real possibility if the requirement for clarity over rights is removed. Independent producers would not be incentivised to bring innovative and quality ideas particularly if the back end is cut off and they are not rewarded for their success. This affects both the programme in question and the health of the sector overall as it occurs across a range of PSB commissioners and output. It would have a negative impact on PSBs and their audiences in terms of choice, quality, investment and innovation.

2.18 Even if the broadcaster were to offer more money for these rights, there is no guarantee that this would be at a market rate. A full understanding of the detriments must be outlined before changes are made – the market will need clarity on where the £640m of finance currently raise by producers would come from.

Lead to warehousing rights further reducing audience access to content

2.19 If a PSB bundles primary and secondary rights at the point of commission and/or removes the requirement to identify rights, it could also lead to the secondary rights not being fully utilised by the PSB. Known as 'warehousing' it means that a programme would become unavailable to audiences when it is not on a PSB service.

2.20 The risk of warehousing is also more significant where the PSB's distribution arm is required to be used by the independent producer as part of its terms. PSB distribution arms may be less incentivised to exploit secondary rights due to conflicting interests. For example, if it was a valuable right they may have other strategic reasons to prevent a competitor from acquiring the content even at a high valuation especially if this could detract from the broadcasters' channel or service.

UK commissioning would return to a cost-plus model

2.21 Without this clarity, the UK commissioning model would go back to a cost-plus model whereby producers would return to being work for hire, effectively becoming a service provider to the PSBs, with no guarantee that the initial upfront production fee would have larger margins. This is what happened to the market prior to the ToT where producers transferred the 'bundled' copyright (including secondary rights) to broadcasters in return for revenue to cover costs and a fixed margin that declined over time as commissioning broadcaster sought to reduce costs by squeezing the producer's margins to a degree that the sector by 2001 was unsustainable.

2.22 As outlined above the market is challenging, and we're concerned that if Ofcom and Government consider removing the requirements to ensure clear identification of rights it would push already challenged producers into accepting poor deal terms in order to win a commission and sustain their businesses.

2.23 Ofcom admitted in their final summary of the consultation on the commissioning code of practice that the benefits of bundling were limited. On bundling Ofcom noted that although PSBs expressed support for Ofcom's proposal, the responses did not include significant details of the scale or likelihood of potential benefits, nor did any PSB suggest that there was a pressing case for relaxing the prohibition on bundling. On matching rights Ofcom also found that matching rights is a complex issue and that a blanket removal of the prohibition on matching rights may not deliver the benefits to audiences that Ofcom had initially anticipated. Ofcom noted, "a blanket removal may inadvertently lead to matching rights being applied at other stages of the programme's lifecycle, such as the funding stage, with unintended negative consequences."[15]

2.24 Despite the challenged environment the existing TOT framework continues to incentivise producers to invest in new ideas and to innovate, knowing that they can benefit from any future success via back-end rights. By doing so, they have played a vital part in enabling UK broadcasters to offer their audiences high quality programming that they otherwise could not afford, across linear and on-demand. This model has become even more critical in supporting PSBs' ability to deliver their remits, particularly as their revenues face increasing pressure. If the ToT framework were to be removed or amended this would have a detrimental effect on PSB and UK audiences and should not be considered.

PSB quotas

2.25 Along with the Terms of Trade other broadcast regulations vital to the UK production sector and the wider Public Service Media system are the PSB quotas, which are made up of the independent production quota, regional production quota and origination quota.

2.26 As Ofcom recently noted the quotas 'support and safeguard the provision of new, UK public service media content'[16]and ensure the PSBs have a certain number of hours of originated content and content made by either independent production companies or productions made outside of the M25. The quotas are implemented via a statutory framework that is placed on each PSB.

2.27 A key outcome of these quotas along with other aspects of the PSB system is a wide range of authentic programming that reflects different communities and help bring people together to make a crucial contribution to the UK's creative economy. Ofcom has also noted that the quotas 'help to ensure continued investment in original, regional and independent production; a central pillar of a public service system designed to meet the needs and satisfy the interests of as many audiences as practicable.'[17]

2.28 In line with the Media Act Ofcom have updated the quotas following consultation to acknowledge that PSBs will now be able to meet their quotas using their online content as well as linear content, meeting the needs of an audience increasingly moving their viewing habits to

[15] Ofcom's Statement on revised guidance for PSBs on commissioning codes of practice, 2025

[16] Statement updating the PSB Quotas: Implementing the Media Act, Ofcom, Oct 2025
[17] IBID

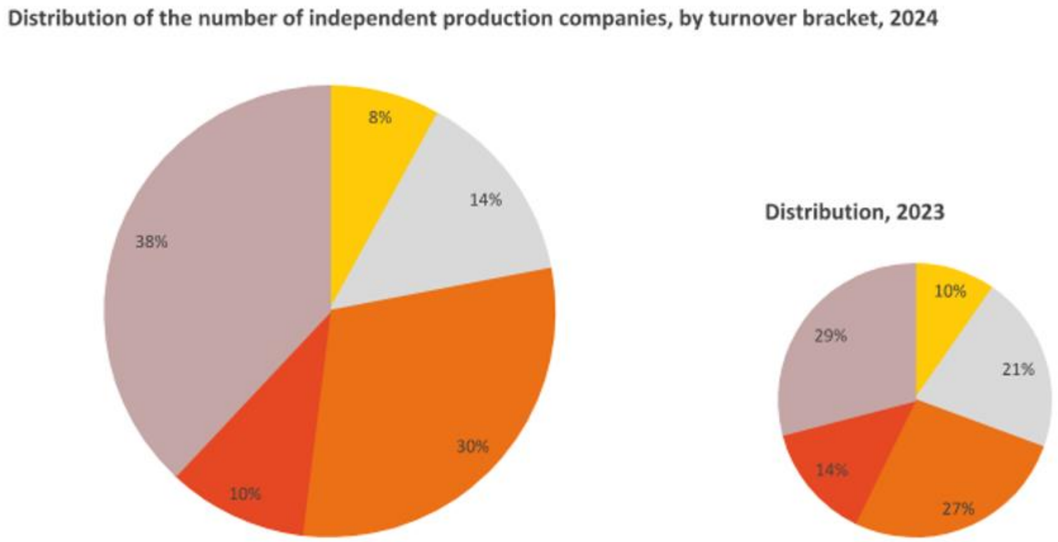
on-demand services. As a result, Ofcom have proposed moving the calculation of quotas to absolute hours rather than a proportion of hours. Pact has broadly agreed with Ofcom's approach but have reservations about the methodology used to calculate the hours, particularly the inclusion of covid hours. Given that this methodology appears to lower the average hours for channels namely Channel 4 and Channel 5 in terms of hours and spend it is crucial that Ofcom review this and keep a watching brief as to its effectiveness.

Independent production quota

2.29 UK Public Service Broadcasters have an obligation to use independent producers for at least a defined minimum volume of their annual commissioning activities (the PSB Independent production quota) This is set out in the 1990: Broadcasting Act which introduced 25% independent production quota for UK PSBs. (Channel 4 will also be subject to an increased quota of 35% now that it is going into production.) The quota plays a key part in maintaining the diversity that we currently see in the UK production sector.

2.30 Recent discussions as outlined in Ofcom's Transmission Critical publication noted that some stakeholders have taken issue with the fact that the current quotas and interventions such as the Terms of Trade to do not differentiate between different types and sizes of independent producers. Pact strongly disagrees with those stakeholders who are calling for a change in the definition of an independent producer. The current policy position helps to incentivise companies to grow and develop and attracts investment to the UK. The success of the current system has been because of this mixed ecology. Since 2003 there has been continuous renewal of production companies and all companies benefit from the policy. In our recent Census we can clearly see that companies continue to be created and then go onto grow across different budget bands. This year's census shows a healthy mix between the different budget bands.

Figure 4: Breakdown of companies by turnover bracket, 2023 & 2024



Note: Individual companies belonging to a larger group are only counted as part of the group. In addition to the companies above, based on analysis from Broadcast, we estimate there are circa 225+ small producers with an annual turnover of less than £1m. Percentages may not add up to 100% due to rounding of figures

Source: Broadcast, Pact UK Television Production Census 2025, Oliver & Ohlbaum analysis

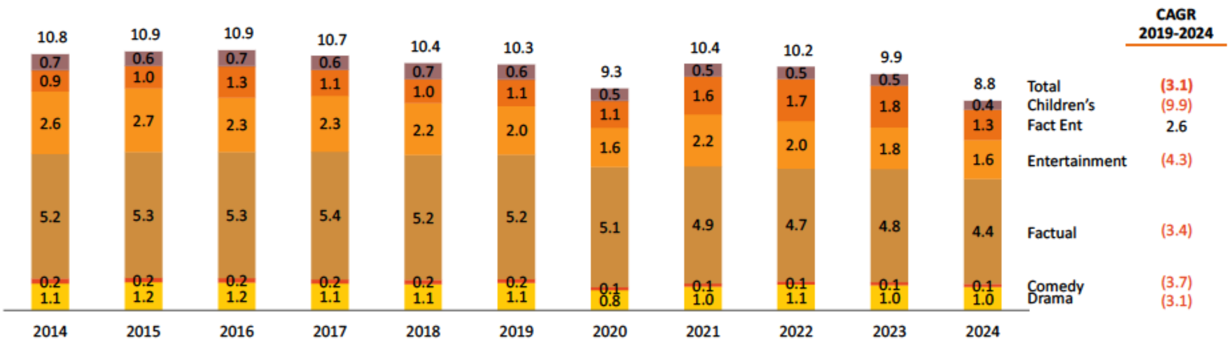
2.31 The system incentivises companies to grow their IP and exploit their assets to their best ability. Change any aspect of this and it will punish success and lead to gaming of the system. Pact has previously outlined how narrowing the definition would lead to companies deliberately minimising their success to qualify as an independent production company. It could reverse the success we have witnessed within the sector.

Original production quotas

2.32 Original production quotas ensure PSBs provide content reflecting the diverse lives, cultures and traditions of UK communities.[18] First -run originations are also important to the PSM system because new IP helps to grow a business and give opportunity for new voices to be heard with the possibility of re-commissions if it proves to be successful.

2.33 Recent analysis by Ofcom has highlighted the decline in first- run origination. In real terms this has fallen to £2.4bn in 2024 compared to a CPI adjusted peak of £3.5bn in 2016. [19] Pact has commissioned Oliver & Ohlbaum Associates to look at the current economic and financial landscape of the UK production sector and within this report it also highlights the decline in origination output by the PSBs over the last ten years. From 2019 – 2024 hours of PSB first run originated output was down by 3.1 per cent annually with number of titles down by 4.1 per cent. Pact's recent census also found that this year new IP's share of total UK commissioning decreased to 29.4 per cent with a 17.5 per cent year on year decline being driven by PSB commissioners across the board.

Figure 5 :First run originated output, hours, all daypart, all genres, thousands of hours 2014-2024



Note: Excluding News & Current Affairs and Sport
Source: Ofcom, O&O Programme Database, Oliver & Ohlbaum analysis

2.34 A fall of this level will have an impact on the opportunities available to the UK production sector and to the level of diverse content available to audiences going forward. Particularly if declines continue. Looking at Ofcom's latest PSM attitudes tracker, most respondents agreed that PSBs are broadly delivering 'well' across a range of attributes. These include 'programmes made for UK audiences' (67%), 'a wide range of different types of programmes, such as drama, comedy, entertainment or sport' (67%) and programmes that 'appeal(s) to a wide range of different

[18] Original production quotas: Guidance for PSBs, Ofcom , 2025
[19] Transmission Critical Report, Ofcom 2025

audiences' (63%), broadly consistent with previous years.[20] If this is to continue third party funding becomes all the more important as will existing levels of investment from the PSBs. As already identified maintaining the Terms of Trade and the ability for producers to bring in deficit financing through the exploitation of their IP will be crucial if PSBs are to continue delivering the diversity and high level of quality content that audiences are familiar with.

Regional production quotas

2.35 The regional production quotas are an important part of the PSM system by helping to move PSB commissioning spend to the UK's nations and regions and contributing to the growth of production hubs. Historically, London and the Southeast has dominated TV commissioning. However, London's share of commissioning spend has been steadily decreasing over the years. In 2017, the majority (66%) of primary commissioning spend was going to London. This decreased to 52% in 2024.[21] We note that some of the PSBs (BBC and Channel 4) have also put in place specific strategies for the nations and regions, the BBC's Across the UK Strategy and Channel 4's All 4 The UK strategy. Most recently, the BBC announced plans that will see the broadcaster double spend on commissioning new shows for TV and BBC iPlayer that reflect stories in Northern Ireland, Scotland and Wales.[22] We are encouraged that many of the PSBs are voluntarily putting in place strategies to grow the sector outside of London and the Southeast. However, we would not want to see the weakening of the current regional production quotas. The current level of quotas and spend should be the bare minimum that are PSBs are achieving. We would also not want to see any substantial changes to the regional production quotas or any substantial changes in definition.

2.36 We are encouraged that Ofcom's *Transmission Critical* report noted that 'regulation will continue to support the provision of content that reflects the diversity of the UK – particularly in the nations and regions – including through targeted and proportionate quotas.'[23] The PSBs nations and regions quotas have played an important role in growing the sector outside of London and the Southeast and providing a steady flow of commissioning and production spend to the UK's nations and regions. Last year, Pact and COBA commissioned a joint report looking at the UK's Screen Sector Clusters, which found that maintaining the current regulation (PSB Terms of Trade, independent production and PSB's Nations and Regions quotas) is vital for the future sustainability of screen sector clusters and watering down of the current regulation was identified as one of the top threats to the sustainability and development of clusters.[24]

2.37 We were very disappointed that Ofcom decided against introducing separate nations quotas for Scotland, Wales and Northern Ireland on Channel 4 as part of its relicensing, and decided against writing its 50% voluntary regional spend commitment into its renewed licence. We still believe that this was a missed opportunity to create more opportunities for indies in the nations and regions and would help safeguard some of the impact of Channel 4 going into production. This would have also provided the production sector in the nations and regions with future

[20] Media Nations, Ofcom 2025
[21] Pact Census 2024: Nations and Regions Annex, Oliver & Ohlbaum Associates, September 2025
[22] https://www.bbc.co.uk/mediacentre/2025/bbc-increase-spend-content-representing-nations
[23] Transmission Critical: the future of Public Service Media, Ofcom, 2025
[24] Screen Sector Clusters: securing sustainability and growth, Oliver & Ohlbaum Associates, February 2025

certainty around levels of commissioning and spend and helped to stimulate growth over the next ten-year licence period. Currently, there is a lack of transparency around PSBs future commissioning plans, which makes it difficult for producers to adequately prepare and plan. Pact have been pushing for the PSBs to publish commissioning plans.

2.38 The sector is undergoing a period of structural change with the PSBs focusing their commissioning on high-end drama, factual and entertainment shows. Leading to investment moving away from genres such as factual and programming traditionally broadcast in daytime. The genres "most negatively impacted by changing commissioning priorities would be largely those genres that support the broadest range of production company types (companies based in the Nations and Regions, small and medium-sized producers, qualifying independents, genre specialists and new companies.)[25] We are concerned about the impact this shift in commissioning will have on the production sector in the nations and regions, and what this means for the diversity of supply.

Children's

2.39 Children's programming brings important economic, social and cultural benefits to the UK, and is an important part of public service programming by exposing young audiences to UK culture and values, reflecting life across the UK and supporting socialisation and learning for younger children. While children and young audiences have more choice than ever for content via a range of traditional broadcasters, global streaming services and other platforms such as YouTube and TikTok, there has been a long-term decline in investment in UK originated children's content. Children's programming is often hailed as one of the most important aspects of the public service programming. However, the twenty years post the Communications Act, which saw the removal of the quotas for children's programming, has failed to adequately protect children's programming and children's TV producers.

2.40 The removal of the quotas for children's programming in 2003 and the ban on the advertising of foods and drinks high in fat, sugar, salt (HFSS) to children in 2006 had a substantial impact on the investment into UK originated children's content. Commercial PSB first-run originated hours dropped from 555 hours in 2004 to just 93 hours in 2014, while spend fell from £48m to just £3m across the same years.[1] While the commercial multi-channel providers did invest in some first-run UK children's hours, this was not enough to compensate for the decline in investment by the commercial PSBs. By 2014, the BBC represented c86% of PSB output and 95% of total PSB spend for children's first-run UK originations.[2]

2.41 The Digital Economy Act 2017 gave Ofcom a new power to publish criteria for the provision of children's programming and, if appropriate, to set related conditions, which could include quotas for the main commercial PSB channels. However, Ofcom decided against setting quotas following its Children's Content Review in 2018 as they believed the PSBs needed flexibility to serve children in ways that reflected their changing viewing habits. Following this, the commercial PSBs developed plans to address Ofcom's concerns and improve the provision of children's content on their respective platforms and channels. Since then, hours of first run UK

[25] Changing UK Content Investment: what could this mean for the health of the UK production sector? Oliver & Ohlbaum Associates, March 2025

originated children's programming have declined to their lowest ever level at 380 hours in 2024.[26]

2.42 We understand the financial and other pressures the PSBs are facing and were broadly supportive of the flexibility given to the PSBs to deliver their remit, quotas and other obligations in the Media Act 2024. However, we are concerned that there is a lack of plurality in the children's commissioning market. There is also no incentive for the commercial PSBs to return to the market and Ofcom have, so far, declined to act. The BBC remains the largest commissioner of UK originated children's content and has a particularly important role as the only publicly funded broadcaster. Channel 5 (Milkshake) also commissions children's programming however, they have a relatively small budget in comparison to the BBC. However, they remain as the only two commissioners of UK children's content. It cannot be left to them alone to fulfil the PSBs remit on children's and sustain the UK children's production sector. Without a substantial increase in the BBC children's budget and Channel 5's spend on children's, both of which seem unlikely in the current economic environment, we are managing decline; ultimately leading to a weaker children's content offering and diminishing opportunities for children's producers, many of whom are already leaving or considering leaving the market altogether.

2.43 The current regulation states that the broadcasters (taken together) are required, as part of their PSM remit to make content available that

1. Reflects the lives and concerns of children and young people in the United Kingdom
2. Is of an education nature, and
3. Helps them to understand the world around them; and

We note that the Secretary of State also has the power to create additional quotas for qualifying audiovisual content if 1) Ofcom recommends it under their most recent report and 2) the Secretary of State considers that qualifying audiovisual content of that description is not being made available by the providers of licensed public service channels (taken together) to the extent that is appropriate.

2.44 Historically, we have not advocated for the re-introduction of quotas given the regulatory restrictions around children's advertising and the issues the PSB system more broadly is facing. However, the children's production sector is now at a critical point and quotas and enhanced requirements around children's may be necessary to safeguard UK originated children's content. Any new regulatory requirements should also come with increased tax credits or other increased forms of public funding.

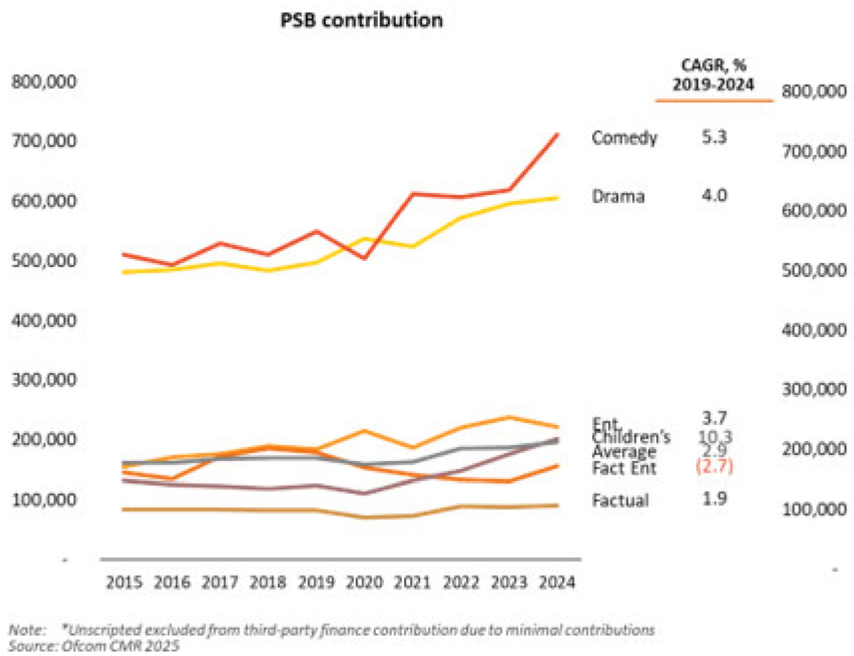
2.45 The issue around financing children's content and children's changing viewing habits are not unique to the UK. Most recently at the Canadian Radio-television and Telecommunications Commission's hearing on domestic programming, the Chair of the Shaw Rocket Fund[27] told commissioners that there has been a 'market failure' in the decline of new children's programming, with production spend falling to $387 million in 2023-24 from $628 million in 2015-16.[28] Similarly, in Australia locally made Australian children's television content decreased

[26] Ofcom Communications Market Report: Interactive, 2024
[27] A non-profit organisation that funds children's television and digital programmes in Canada.
[28] https://playbackonline.ca/2025/05/16/crisis-in-childrens-content-takes-spotlight-at-crtc-hearing/

by more than 84% between 2019 and 2022, shrinking from 605 hours to 95 hours.[29] Australia recently introduced a social media ban for under-16s. We note there has been calls from some MPs to put in place a similar ban in the UK. However, we would urge Ofcom and the Government to consider the impact any social media ban would have on the children's media sector and financing.

2.46 The financing of children's productions has often been complex due to the regulatory and advertising restrictions on children's programming. Children's productions are largely reliant on broadcaster funding, the tax credits and, increasingly, deficit financing. The regulatory and advertising rules around children's programming makes it difficult for producers to attract other sources of third-party finance which other genres usually use as part of their financing places. The UK PSBs also do not fully fund children's programming and as production costs have increased, producers are finding it increasingly difficult to find the necessary financing and, in many cases, programmes are unable to begin production resulting in less British IP, jobs and UK content for children. The increased cost of production has meant that while PSBs spend on children's programming has remained largely at the same level, with the occasional increase and decrease year-on-year, the number of hours has been steadily decreasing. For example, in 2015 the PSBs spent £77m across 580 hours of first run UK originated children's content. Whereas in 2024, the PSBs spent the same for 380 hours.[30] The Bigger Picture report, which we outline in more detail later, shows that children's cost per hour (CPH) has increased substantially at an average cost per hour increase of 10.3% annually since 2019.

Figure 6: PSB commissioned content Cost per hour, by genre, 2015 to 2024



[29] https://www.theguardian.com/culture/2023/aug/01/australian-made-childrens-tv-content-found-to-have-collapsed-between-2019-and-2022
[30] Ofcom Communications Market Report 2025, Ofcom, 2025

2.47 The increase in children's CPH is largely driven by creative cost inflation as SVOD raised audience expectations for children's drama and an overlap with resources for adult scripted. It is up to Government to consider policy options such as tax credits, levies or other sources of public funding. However, we were pleased that Ofcom's *Transmission Critical* report states that if there is to be new funding available, they recommend genres such as news, local news and children's should be prioritised. The Commons Culture, Media and Sport Committee launched an inquiry into children's TV and video last year and is considering potential policy options for children's TV. Ofcom should take the findings of this inquiry and recommendations into consideration as part of its review of broadcasting regulation.

2.48 DCMS is also in the process of reviewing the BBC's current Charter and launched a public consultation on the changes they are considering making to the BBC's new Charter, which will take effect from 1st January 2028. While this is separate from Ofcom's Review of Regulation, and we understand that Ofcom will be undertaking its own work on this area, it's vital that children's remains a core part of the BBC's next charter. The BBC is the largest commissioner of children's content in the UK and plays a vital role for children's producers. The outcome of the BBC's charter renewal process will be particularly important for children's producers.