

BBC Scotland competition assessment:
Ofcom consultation on provisional
determination

pact.

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Introduction

- 1) Pact is the trade association that represents the commercial interests of the independent production sector across the UK. Pact has 500 members including around 40 companies, largely small and medium sized businesses, based in Scotland across TV, film, digital, animation and children's production.
- 2) The UK independent television sector is the second largest in the world, with revenues growing over the last ten years to around £2.5 billion in 2016 with international revenues largely driving growth.¹
- 3) UK TV exports are also a success story with international revenues from the sale of UK TV programmes and associated activities at £1.3 billion in 2015/16, up an impressive 10% from the previous year.
- 4) In 2015, the Scottish original production market was worth approximately £190 million, and has grown by 9% per annum since 2009 (rising from a low base following the introduction of network quotas for the UK Nations by the BBC and, later, Channel 4).² Scotland now has an increasing number of producers able to compete nationally and internationally across a number of genres. Pact modelled that the production market in Scotland could rise to £250m if a number of recommendations in the Pact report '*Building a sustainable independent sector in Scotland*' were implemented.
- 5) Pact is pleased that the BBC has committed to both more investment in Scotland and to ensure that proportionately more of the licence fee raised in Scotland is spent on dedicated services in Scotland (currently 72% according to the latest BBC Annual Report³).
- 6) The BBC has a Public Purpose to support the creative economy across the UK and overall the new channel should be a positive catalyst for the creative industries in Scotland including independent production. Investment in the local production sector will bring a diverse range of quality content to audiences in Scotland, the UK and internationally.
- 7) The focus of Pact's response to the competition assessment is to call on Ofcom to monitor the impact of the new channel on market competition particularly in light of the concerns we have raised around current levels of investment and channel cost per hour.

¹ Pact Census Independent Production Sector Financial Census and Survey 2016, by Oliver & Ohlbaum Associates Limited

² Building a Sustainable Independent Production Sector in Scotland, Pact (Nov 2015)

³ BBC Annual Report and Accounts 2016/17

<http://www.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/ara>

Overall approach in response

- As we expressed in our original submission, Pact is pleased that the BBC has committed to more investment in Scotland through the new BBC Scotland channel. We welcome increased funding for production which we believe overall will benefit Scotland's production sector and the creative economy as a whole.

Impact on competition

- Pact broadly agrees with the provisional conclusions reached by the Ofcom assessment that the new channel in Scotland will deliver 'public value' for audiences, will not have a 'substantial crowding out effect' and that any adverse impact on the market is likely to be 'fairly limited'. We recognise that the purpose of this assessment is about the considering the public value of the channel and justifying the market impact within that context.
- We recognise that prominence of news and current affairs across the schedule was expected but we equally underline the importance of current affairs (and indeed other genres) commissioning opportunities being open to the market as we outlined in our previous response in line with the new BBC Charter and subject to Terms of Trade.
- We appreciate that the Ofcom assessment of market impacts acknowledges Pact's concerns about potential impact on future competition in the market. We note the Ofcom observation that the new channel should 'strengthen production in the nation' but this should be kept under review. The risk, as we have outlined, is that larger companies are in a better position to deficit finance content at a low cost per hour model and maintain high levels of quality.
- We agree in terms of impact on the Scottish Production sector that it is 'uncertain at this time' whether any 'efficiency benefits would actually arise and how large they might be'.
- Pact would welcome active monitoring by Ofcom into the future, particularly after the channel has been in operation for 1-2 years with regard to the impact on the market. Ofcom could provide further comment and analysis if it is clear that suppliers to the new BBC Scotland channel are dominated by a small number of large companies. Ofcom has a duty to maintain competition in the media market across the UK.
- We welcome Ofcom's call for the BBC to be 'more transparent' in the future around the operation of the new channel.

STV

- We recognise that predicted decline in viewing of STV and STV2 is likely to be relatively small and that revenues across all commercial channels are likely to fall between £1m and £2m in 2019 with the largest individual impact on STV. The impact on Pact members is likely to be low as STV commission little from independent production companies anyway. We note Ofcom's provisional conclusions that the incentives of commercial broadcasters to invest and innovate are unlikely to be substantially affected.

Ofcom's operating licence

- In our response to the original consultation, we expressed our deep concern about the possibility that programmes commissioned for the proposed new BBC Scotland channel could be classed as network programmes. As the BBC highlights in its submission this is counterintuitive and would be counterproductive – reducing the BBC's investment in the UK's nations and regions by setting local content against a network quota:

'definitions of regional and network programming in the BBC Agreement taken together confine regional programming to only those programmes shown on a variation to an existing service. Under these definitions we would expect that programmes on the proposed BBC Scotland channel would, somewhat counter-intuitively, be classed as network programmes.

- We appreciate that Ofcom is dealing with the competition issues first but we would welcome an opportunity for further dialogue and consultation after the consultation has concluded in mid-July.
- Pact's understanding was that the new channel would be allocated as a local service in addition to the existing opt out budget and current 9% BBC network spend in Scotland as outlined in the recently agreed BBC service licence. Pact requests that Ofcom clarify the position of content commissioned for the new BBC Scotland service as a priority and expects that such content will, correctly and logically, be considered local, non-network content.
- Pact would welcome being included in this important consultation process and we welcome further information about timings for decision making. Ofcom should classify programmes on the channel as non-network for the purposes of monitoring the BBC's percentage of network production produced outside of London, in line with its current treatment of BBC Alba. Doing otherwise, could have important repercussions for both network investment in Scotland but potentially the wider out of London quotas too.