

Ref: Northern Ireland Independent Television Production Sector group letter submission to Ofcom follow-up consultation on Channel 4 (C4C) licence renewal as a public service broadcaster (PSB). (Companies listed below)

This is in response to OFCOM's update re-consultation on Channel 4 (C4C) Licence renewal

27th August 2024

We the Northern Ireland production companies and sector stakeholders listed below wish to respond to **the follow-up consultation** in the following way and to state that the OFCOM consultation process in the six months since we first submitted has served to further marginalise and negatively characterise our collective case.

- We disagree with OFCOM's refusal to adopt individual nations quotas - the quota for Northern Ireland should be set at 3% and importantly with a genre mix.
- We believe the overall Nations quota (MoE) should be set at the widely supported 16/17% by 2030 (and not 12% - the minimum change that could be credibly proposed by OFCOM).
- We do not believe that a 5/6 year transition period to new quota level is in any way necessary for Channel 4. We propose measured interim staging posts in 2027 and 2029.
- We do not believe that a non-binding annual reporting structure will effectively and reliably replace individual Nation's quotas.

Overview:

This group is concerned by the characterisation of the Northern Ireland sector during the OFCOM consultation (ref: 4.58 to 4.61), namely that Channel 4 (having failed to commission and invest to proper levels in Northern Ireland) has described Northern Ireland as uncompetitive when compared to those nations in which it *had* invested. We consider this a self-serving and disingenuous spin over which we have no influence, except through political intervention and binding legislation.

Northern Ireland stands alone in this matter as a casualty of failure of intervention by OFCOM. It is this group's view that the responsibility for this *ultimately* lies with OFCOM both in the well documented C4 under-performances of the current licence period (Ref: 4.76) and in the seemingly blind determination to repeat the medicine in the next licence period.

Without an individually articulated quota for Northern Ireland the exclusion of our sector will continue and extend to 20 years. As emphasised in our February submission this is a generationally damaging outcome both economically and in terms of regional portrayal in a period of regional regeneration. It is an inflection point exposing failure of oversight and a politically impervious metrocentric culture. The damage to relationships and belief in the process is inevitable.

Consultation question 1 and 2: Do you agree with our assessment of the potential impact on specific groups of persons?

Sectoral group answer: We do not agree. See specific reference to points 2.20 and 2.21 of the (OFCOM) **Impact of our proposals / Equality Impact Assessment**.

OFCOM statement here:

2.20 “We consider that our proposal to increase C4C’s MoE quotas may have a positive impact on the creative economy in the nations. The proposals could also improve the way that the lives and concerns of different communities and their cultures and traditions are reflected and represented to viewers or citizens in the UK (as discussed at paragraph 4.63 below).”

Sectoral group answer here: 2.20 (a) This is a misleading and generalised wording of the central proposal in Ofcom’s consultation.

While there is clear consensus in the Nations and among stakeholders that any increase is an improvement, there is almost universal agreement among consultees that OFCOM’s 12% Nations proposal is too low and is the minimum that could have been credibly proposed. All other responsible consultees proposed that an MoE quota should be legitimately set at 16/17% (population levels).

The attendant Ofcom/Channel4 proposal that Channel 4 should be allowed 5/6 years to deliver on an increased commitment is also considered to be unnecessarily over-protective of Channel 4 .

Sectoral group answer here: 2.20 (b) Most importantly for the group of companies listed below, the decision by OFCOM to disregard the statistically proven under-performance by Channel 4 in Northern Ireland is hard to accept. By its own admission in point 4.76 of the current re-consultation paper OFCOM states here:

“We accept that production spend and hours in Northern Ireland for the PSBs overall, and by C4C, has historically been significantly lower than in

Scotland and Wales, and we note that C4C's delivery in the individual nations has fluctuated considerably over recent years."

In point 4.75 OFCOM also states here:

"We considered nation-specific quotas in the last relicensing process in 2014. At the time we concluded that, although such quotas could benefit the relevant producers and the production sectors in the nations, they would represent a more substantial constraint than general MoE quotas upon commissioning on merit and diversity of suppliers."

This is as clear an articulation as is possible that OFCOM is prepared to tolerate under-performance by Channel 4 in Northern Ireland for some 'greater good'. That Channel 4's healthy survival 'by any means' trumps Northern Ireland's integration, as if they were exclusive choices. This has been clearly demonstrated by Ofcom's own statistics here:

<https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/psb/annual-report-2023>

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and re-confirmed by PACT in the recently commissioned Oliver & Ohlbaum '**Channel 4 Made outside England**' analysis.

Consultation question 4: Do you agree with our proposed guidance for C4C on how it should report on its MoE production in its SMCP?

Sectoral group Answer: We do not agree.

OFCOM's sole offer of succour for Northern Ireland in this matter is in point 4.81 here:

"Whilst we do not consider nations-specific quotas to be appropriate, we do think that C4C should ensure that it distributes its MoE spend in a way that does not disadvantage any individual nation. We propose to retain the requirement that in each calendar year MoE spend must be referable to production centres in Scotland, Wales and Northern Ireland. In addition, we discuss in paragraphs 4.92-4.98 how we are proposing to ask C4C to report on its strategy for commissioning in each individual nation which would allow us to better hold it to account in this area."

This group would like to point out that ten years ago OFCOM in their licence guidance to Channel 4 made essentially the same proposal:

2014 “..the condition we propose to include in Channel 4’s renewed licence will require that in each annual period from 2020 production spend must be referable to production centres in each of Scotland, Wales and Northern Ireland. We will monitor Channel 4’s progress in increasing production in its annual returns that are published by OFCOM.”

This begs the question why the proposal which failed in 2014 should now work in 2024 - let alone 2030 - or why we should assume that past behaviour is not the predictor of future behaviour.

It is our view that Channel 4 has unilaterally exaggerated the degree of difficulty in applying individual Nation’s quotas either in terms of sectoral capacity or in the lead-in time required to make the transition. OFCOM has accepted C4’s case without rigor or extended interrogation and in doing so has undermined the perception of independence in the consultation process.

(We are grateful to Northern Ireland Screen for their rebuttal of OFCOM’s analysis and PACT for commissioning O&O reports to present data that demonstrates standard costs of production in NI and that C4C’s argument against the practical delivery of a population appropriate quota are strongly overstated.)

Public Service Broadcasting is a government and political intervention in the public broadcasting sphere for the whole of the UK. Recent media commentary suggests that London-centric retrenchment has increased again. At its best Channel 4 has a unique and specific public service intervention and contributes to the overall outstanding purposes of UK public service broadcasting. But C4C’s commercial funding model makes it vulnerable to focussing solely on its financial health and future, downplaying the creative and diverse opportunities in its public service obligations and regional interventions.

In the case of Northern Ireland Channel 4 has failed to deliver. How can it be said that OFCOM is determined to remedy that failure? The decision not to apply individual Nation’s quotas makes Northern Ireland the only real casualty of an ad-hoc and ‘voluntary’ intervention. It is politically intolerable.

We must remember that the current Channel 4 Nations (MoE) obligation of 9% leaves 91% produced out of London and England. It’s our view that the prospective change to a higher quota is generating anxiety in both Channel 4 and OFCOM that is out of proportion to the actual impact it will have.

So it is with some scepticism that this group addresses the points made by OFCOM in points 4.40 and 4.41 here:

4.40 “Therefore, in the event that it could not move sufficient content from London, C4C would either have to move commissions from the English regions or increase its overall content spend. C4C said that reallocating such a large proportion of content spend may lead to harming production communities in England.”

4.41 “C4C has provided credible (!) reasons as to why there is a limit on how much moving content from England (London and English regions) can contribute to fulfilling an increased MoE quota. Therefore, we consider it is likely that C4C would need to increase its content spend to meet any increase beyond 12%.”

No consultee in this process has suggested a new inappropriate imbalance (there is a risk of scaremongering here in the points raised by OFCOM). Re-balancing by its nature requires the shifting from one dispensation to another. For decades the concentration in broadcasting has been unfairly weighted in favour of London and England – and as already mentioned, and needs emphasised, recent commentary would tell us that this drift continues. In general, the overall balance would not change significantly. However, it does represent a need for ‘levelling up’ in current parlance, where government intervention has the promise of positive possibility and change for the better – a regional diversity of supply and representation.

Importantly however, it is as businesses that we present our case. The estimated loss of somewhere between £50-140M to our sector in the current licence period if Channel 4 had taken a different path is hugely consequential. The negative messaging by OFCOM and Channel 4 belies the significant advances in our screen industries over the same ten-year period. OFCOM, through Nations’ quotas, has the opportunity and mechanism to redress and unlock further growth potential, and Channel 4’s part played in that – and in a way that will see Northern Ireland treated as the equal of the other Nations.

In conclusion we wish to point out that our responses are in broad agreement with other significant stakeholders - Northern Ireland Screen, Creative Scotland, Creative Wales, PACT nationally and locally, Ministerial Departments in each of the three Nations, The Northern Ireland Chamber of Commerce and Industry and others.

See the list below of Northern Ireland companies signed up to this letter.

Afro-Mic Productions	Imagine Media	Prodigal Films
Aisling Productions	Indie Movie Company	Paper Owl Films
Alleycats	Ligid Productions	Rare TV Productions
Armchair and Rocket	Little Ease Films	Ronin Films
Below The Radar	Macha Media	Score Draw Productions
Besom Productions	Macmillan Media	Sixteen South
Big Mountain Productions	Mammoth Screen	Sonas Productions
Cause-a-Scene Films	Moondog Productions	Stellify Media
Clean Slate Television	Negative Waves	Strident
Cyprus Avenue Films	New Red TV	Tern TV
Dog Ears	Nice One Productions	Triplevision Productions
DoubleBand Films	Northern Star Pictures	Tyrone Productions
Element Pictures	Notasuch Films	Village Films
Erica Starling Productions	NPE Media	Waddell Media
Green Inc Film&Television	Open Reel Productions	Walk on Air Films
Gallagher Films	Out of Orbit	Wee Buns
Hat Trick Productions	Palindrome Pictures	Westway Film Productions
Humain	Poli Productions	Zoogon