

# Creative Scotland's Response to Ofcom's Consultation on its Third Review of Public Service Broadcasting

## Introduction

Creative Scotland is the national body that supports the development of arts, screen and creative industries across all parts of Scotland. We enable people and organisations in Scotland to work in and experience the arts and creative sectors. We do this by helping others to create culture through developing great ideas and bringing them to life.

*"We want a Scotland where everyone actively values and celebrates arts and creativity as the heartbeat for our lives and the world in which we live; which continually extends its creative imagination and ways of doing things; and where the arts, screen and creative industries are confident, connected and thriving."*<sup>1</sup> We aim to achieve this vision through four key functions:

- Funding support for individuals and organisations working in the arts, screen and creative industries.
- Advocacy on behalf of these sectors, both nationally and internationally.
- Development support for these sectors so that they can continue to grow and thrive.
- Influencing others to understand the value that the arts, screen and creative industries deliver.

Creative Scotland's overall budget for 2014/15 is £93m, which we receive from the Scottish Government (60%) and the National Lottery (40%). The funding allocation across our areas of remit is broadly as follows:

- Arts: £65m
- Screen: £9m
- Creative Industries: £7m.

Creative Scotland welcomes this opportunity to contribute to *Ofcom's Consultation on its Third Review of Public Service Broadcasting*, particularly in view of our role in supporting the production, development and appreciation of Screen content across Scotland and beyond. We have concentrated our responses on those consultation questions which are most relevant to our own specific remit as a Scottish NDPB.

**Question 1: Do you agree with our assessment of the context in which the PSB system operates, and how the trends identified might affect the PSB system? In particular, do you agree with our analysis of the independent production sector**

In general, we believe Ofcom has identified the significant trends which look likely to affect the PSB system and has made a reasonable assessment of how these trends might affect the system. The problem is that there are almost certain to be important future developments which will not have been anticipated, as well as anticipated developments which will impact the system in a different way from that envisaged. The key message is to try to build in as much flexibility as possible and to be prepared to make further

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<sup>1</sup> Creative Scotland, *Unlocking Potential, Embracing Ambition, a shared plan for the arts, screen and creative industries*, 2014, at <http://www.creativescotland.com/resources/our-publications/plans-and-strategy-documents/creative-scotland-10-year-plan-unlocking-potential-embracing-ambition> .

evidence-based changes to the regulatory structure if and when these are urgently required.

A case in point is the scale and rapid pace of change in the independent production sector. Ofcom is correct in recognising its significance, but how will this play out? On the one hand, the consolidation and acquisition of much of the UK independent sector by US multinationals could be seen as providing the essential scale of investment and greater access to international markets to move the sector onto the next level. On the other hand, a change of ownership of this magnitude could be the catalyst for the disappearance of the unique UK PSB ecology which many commentators would argue has been at the core of the success of Television production and broadcasting as one of the UK's few genuinely world leading industries.

David Abraham, Chief Executive of Channel 4, would certainly appear to be a member of the group which sees more danger than promise from the changes in the independent sector, based on his MacTaggart lecture in Edinburgh last year:

"The chief executive of Channel 4 has warned that large parts of the British television industry are being bought up almost wholesale by US media companies, while the medium faces a longer term existential threat from the increasing involvement of technology giants including Apple and Google.

David Abraham said public service broadcasters (PSBs) including Channel 4 and the BBC were the only bulwark against a broadcasting industry dominated by US media moguls such as Rupert Murdoch and Virgin Media owner John Malone and even larger technology firms.

'TV is clearly now a combat vehicle for tech and mobile companies and platforms to compete with each other rather than a sovereign industry in its own right,' said Abraham, delivering the prestigious James MacTaggart memorial lecture at the Guardian Edinburgh international television festival on Thursday evening."<sup>2</sup>

In our view, the current state of fragility of much of the independent production sector, particularly in Scotland and other areas which face the challenge of counteracting the long established centripetal pull of London (see our response to Question 2 below), is a more urgent concern for PSB. Strengthening the sector in the Nations and Regions should be seen as a priority.

## **Question 2: Have we identified the key differences in Northern Ireland, Scotland and Wales?**

The key differences between Scotland and London arise from the lack of scale and the constant battle to achieve the critical mass to sustain an indigenous film and television production industry.

It is also true, as we noted in our recent submission to the Scottish Parliament Economy, Energy and Tourism Committee, that Scotland's screen industry is currently falling behind the other UK nations.<sup>3</sup> In terms of differences between nations in the television production sector, the obvious difference is in levels of licence fee expenditure on content production for the nations. In Northern Ireland approximately £53 million in

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<sup>2</sup> Guardian, *British TV industry at risk from US tech and media giants, says Channel 4 chief*, 21 August 2014, at: <http://www.theguardian.com/media/2014/aug/21/british-tv-industry-risk-us-tech-media-channel-4-david-abraham> .

<sup>3</sup> Creative Scotland, *Submission to the Scottish Parliament Economy, Energy and Tourism Committee*, January 2015, p. 4, at: <http://www.creativescotland.com/resources/our-publications/scottish-government/committee-submissions> .

licence fee resources is spent on local content compared to revenue of £98 million<sup>4</sup>; in Wales £151.7 million is spent on local content compared to revenue of £182 million.<sup>5</sup> Scotland raises some £320 million in licence fee resources but spend on local content by BBC Scotland is set to fall to £86 million by 2016-17,

While the screen industries in Scotland have proven they can achieve widespread critical and some commercial success with a number of films - such as '71, Sunshine on Leith, For Those in Peril, Starred Up and Under the Skin – promoting the very best of our on and off-screen talent, filmmakers, skilled crews and a rich variety of locations; its ability to fulfil its full potential is restricted by lack of access to resources that are comparable to other nations and regions. Notable barriers include the lack of a large-scale permanent studio facility and appropriate levels of production funding to attract productions of significant scale.

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<sup>4</sup> total licence fee revenue in 2012-13: £3,706,000,000

[http://www.bbc.co.uk/annualreport/2013/executive/finances/licence\\_fee.html](http://www.bbc.co.uk/annualreport/2013/executive/finances/licence_fee.html)

Northern Ireland number of households as proportion of UK total: 2.65%

<http://www.ons.gov.uk/ons/rel/census/2011-census/population-estimates-by-five-year-age-bands--and-household-estimates--for-local-authorities-in-the-united-kingdom/stb-population-and-household-estimates-for-the-united-kingdom-march-2011.html>

NI licence fee revenue therefore of order of £98 million

The BBC's annual budget in Northern Ireland for the delivery of local content is £53 million. ([http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc\\_delivering\\_qualityfirst\\_strategy\\_northernireland.pdf](http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc_delivering_qualityfirst_strategy_northernireland.pdf) - p 14)

<sup>5</sup> total licence fee revenue in 2012-13: £3,706,000

[http://www.bbc.co.uk/annualreport/2013/executive/finances/licence\\_fee.html](http://www.bbc.co.uk/annualreport/2013/executive/finances/licence_fee.html)

Wales number of households as proportion of UK total: 4.92%

<http://www.ons.gov.uk/ons/rel/census/2011-census/population-estimates-by-five-year-age-bands--and-household-estimates--for-local-authorities-in-the-united-kingdom/stb-population-and-household-estimates-for-the-united-kingdom-march-2011.html>

Welsh licence fee revenue therefore of order of £182 million

BBC licence fee funding for S4C: £76.3m [http://www.s4c.co.uk/e\\_press\\_level2.shtml?id=726](http://www.s4c.co.uk/e_press_level2.shtml?id=726)

BBC in kind support for S4C: £ 19.4m [http://www.s4c.co.uk/e\\_press\\_level2.shtml?id=726](http://www.s4c.co.uk/e_press_level2.shtml?id=726)

BBC television production for Welsh audiences: £31.1 million

[http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc\\_delivering\\_qualityfirst\\_strategy\\_wales.pdf](http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc_delivering_qualityfirst_strategy_wales.pdf)

BBC Radio Wales: £13 million

[http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc\\_delivering\\_qualityfirst\\_strategy\\_wales.pdf](http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc_delivering_qualityfirst_strategy_wales.pdf)

BBC Radio Cymru: £11.9 million

[http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc\\_delivering\\_qualityfirst\\_strategy\\_wales.pdf](http://downloads.bbc.co.uk/aboutthebbc/insidethebbc/howwework/reports/pdf/bbc_delivering_qualityfirst_strategy_wales.pdf)

Total: £151.7 million

Our Film Strategy has identified the following key priorities for film in Scotland<sup>6</sup>; many of these priorities also have read-across to television and indeed other screen product in Scotland:

- a sustainable film studio (for which Creative Scotland has ring-fenced a £1m contribution)
- increased incentives for film and television production which match – or better – the incentives of other territories
- greater support for writers and script development
- talent and skills development across the entire film value chain addressing skills gaps through specific targeted programmes
- support for and commitment to Scotland's production community, in particular documentary-making and animation, through sourcing increased funding for production
- support for, and investment across, the distribution and exhibition sector creating better links from production through to distribution and exhibition together with a focus on audience development
- greater emphasis on film and moving image education with clearer, more co-ordinated routes from school to further education and on into industry, together with development of real professional opportunities and sustainable careers across the screen sector.

Clearly Creative Scotland cannot achieve these priorities on its own. Genuine partnership working is essential if we are to succeed, with the PSBs, both UK and Scottish Governments and other UK and Scottish agencies having major roles to play. As we stated in our recent 10 year plan for the arts, screen and creative industries in Scotland, Scotland needs a new strategic approach to film and media, including identifying sources for increased investment in production, studio infrastructure, business development for SMEs, well-connected skills initiatives (from public engagement and tertiary education to industry entry, skill-sharing across the sector) and audience development.<sup>7</sup>

**Question 3: Do you agree with our assessment that the PSB system remains strong overall**

From a Scottish perspective, the lack of scale and critical mass, as well as the significant gaps in the physical and support infrastructure – see our response to Question 2 above – do not provide confidence that the PSB system is adequate, let alone strong.

**Question 4: Given the resources available, to what extent is the system meeting the needs of as wide a range of audiences as practicable**

N/A

**Question 5: Given the resources available, does the PSB system deliver the right balance of spend and output on programming specifically for audiences in**

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<sup>6</sup> Creative Scotland, *On Screen – Film Strategy 2014-17*, 2014, p.13, at: <http://www.creativescotland.com/resources/our-publications/plans-and-strategy-documents/film-strategy-2014-17> .

<sup>7</sup> Creative Scotland, *Unlocking Potential, Embracing Ambition, a shared plan for the arts, screen and creative industries*, 2014, p. 49, at <http://www.creativescotland.com/resources/our-publications/plans-and-strategy-documents/creative-scotland-10-year-plan-unlocking-potential-embracing-ambition> .

## **Wales, Scotland and Northern Ireland and programmes reflecting those nations to a UK-wide audience**

It is good to see some improvement in Scotland's share of network television production, but immediate concerns remain over:

- the extent of the real and lasting contribution of many inward productions to the resident skills and talent base and Scottish business and economic development;
- the decline in non-network Scottish programming; and
- the inadequate quality and quantity of Scottish news and current affairs.

The Scottish Independence Referendum is over now, but it appears increasingly likely that the process itself has generated some major lasting changes in Scottish politics and broader Scottish society, in addition to the more obvious activity emanating from the Smith Commission. It is unclear whether the PSB system as it stands in Scotland will be sufficiently resilient to adapt to this new and uncertain environment.

Against this background, it was surprising to note that Ofcom specifically states that it does not "...intend to examine in detail whether there might be a more optimal mix of institutions for delivering public service content in the future; nor do we intend to explore the potential impact of further devolution in Scotland, Wales or Northern Ireland."<sup>8</sup>

### **Question 6: Is declining investment affecting the quality of PSB and is it a cause for concern?**

A particular concern in Scotland is the low and declining level of investment in specifically Scottish programming, particularly the 'opt out' programmes produced by stv and BBC Scotland. On a broader geographical front, there is a real danger of a 'tipping point' being reached where the resilience of traditional TV viewing starts crumbling and the much predicted decline in linear TV viewing – already evident among younger viewers - and its associated mass advertising revenues starts to accelerate.<sup>9</sup>

### **Question 7: Do you agree with Ofcom's provisional findings in the Review of C4C's delivery of its media content duties?**

Creative Scotland is making a separate submission to Ofcom's Review of Channel 4's delivery of its media content duties (2010 – 2013) which will address this issue.

### **Question 8: To what extent do you agree with our assessment of the degree to which the non-PSB services play a role in helping to deliver the public service objectives? In doing so please set out your views on the delivery by the PSB portfolio channels, other non-PSB channels, on-demand and internet services and also radio services separately.**

We share the Scottish Government's concern over the concept of PSB Portfolio channels. While universality of access is an important part of PSB standing, the "portfolio" channels are only available on multiplexes serving c. 90% of the population. If they were to achieve greater coverage, this might be worthy of review. Placing PSB

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<sup>8</sup> Ofcom, *Ofcom's Third Review of Public Service Broadcasting: Terms of Reference*, 2014, p.7, at: [http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb3/PSBR\\_Terms\\_of\\_Reference.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/reviews-investigations/psb-review/psb3/PSBR_Terms_of_Reference.pdf).

<sup>9</sup> See Financial Times, *Broadcasters fear falling revenues as viewers switch to on-demand TV*, 22 February 2015, at <http://www.ft.com/cms/s/0/e46dc7a4-b843-11e4-86bb-00144feab7de.html#axzz3Sgxf5vTn>.

advertising restrictions on the “portfolio” channels would limit the contribution that e.g. E4 makes to financing the core Channel 4 channel.

Other non-PSB channels certainly produce some programming with PSB characteristics but it would be extremely unwise to rely on this. Our view is that core PSB services, including a strong publicly funded element, remain essential.

Similarly to the “portfolio” channels, online and internet services raise issues of access. The current proposal to remove BBC 3 from free-to-air digital terrestrial television to an online platform underlines the importance of Ofcom’s role in ensuring access to high quality broadband services across all of the UK.

For radio, a major concern will be maintaining coverage as the switchover from analogue to digital continues.

We also note the references to newspapers in this section. **While this is of interest, it should not be seen as a substitute for PSB output, particularly given the present economic pressures on the printed press.**

**Question 9: How likely are we to see steady evolution and have we identified all of the potential alternative scenarios and risks to the system?**

Steady evolution is highly unlikely – see our response to Question 1 above.

Pointing out that the main UK PSBs, including the BBC, ITV and Channel 4, were responsible for 80% of the £1.7bn spent on original programmes from UK producers in 2013, David Abraham has warned that corporate America has a “different attitude towards experimentation and risk-taking” to that in the UK, which he views as an existential threat to the PSB system. In response, he has called for the PSB system to be enhanced in order to protect the “creative risk capital” investment in UK-originated programming.<sup>10</sup>

**Question 10: How might incentives to invest change over time?**

We share some of the concern expressed by David Abraham over the preoccupation of recent UK Government measures on tax breaks to support inward investment for production in the UK. As noted, TV broadcasting and production is one of the few industries where the UK is genuinely world class. And successful IP development, exploitation and retention are key to that status. But as Abrahams points out:

“Bringing American movie and drama productions here is great for jobs in the same way as making iPhones in China is great for China – but the IP and profits are on the first boat out of here.”

While Creative Scotland has welcomed the introduction of the current UK Creative Sector Tax Reliefs for High-end Television, we have also expressed some concern over the danger of neglecting the crucial importance of other interventions and the need for continuing and indeed increased emphasis on ‘Outside London’ policy objectives.

Abraham has suggested a number of proposals which he believes would help Channel 4, including a reform of the terms of trade that govern broadcasters’ commercial relationships with independent producers. His view is that subscription TV operators such as BSkyB should have to pay to be able to offer the most popular PSB channels such as

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<sup>10</sup> Guardian, *British TV industry at risk from US tech and media giants, says Channel 4 chief*, 21 August 2014, at: <http://www.theguardian.com/media/2014/aug/21/british-tv-industry-risk-us-tech-media-channel-4-david-abraham> .

the BBC and Channel 4 to their customers.<sup>11</sup> In our view, a review of this proposal would appear to be merited, particularly when 'free' popular PSB content is compared with the vast sums paid by subscription TV operators for English Premier League football rights.

**Question 11: Have we identified all the relevant ways in which the PSB system might be maintained and strengthened?**

See our response to Question 10 above.

**Question 12: Does universal availability and the easy discoverability of PSB remain important and how might it be secured in future?**

Yes, universal availability and the easy discoverability of PSB is becoming increasingly important, reflected in the increasing importance and value of EPG slots. Continuing robust regulation to ensure EPG prominence and 'must carry' provision where necessary will be required across all viewing platforms.

**Question 13: Should we explore the possibility of giving greater flexibility to PSB institutions in how they deliver public service content, including examining the scope (in some or all cases) for regulating by institution, not by channel**

N/A

**Question 14: Do the current interventions in relation to the independent production sector need to change in light of industry developments?**

N/A

**Question 15: Have we identified the right options when considering potential new sources of funding, are there other sources of funding which should be considered, and which are most preferable?**

We would recommend an early review of the public value for money offered by Local TV, including a comparison with alternative uses for the assets and subsidies involved.

**26/02/2015**

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<sup>11</sup> Guardian, *British TV industry at risk from US tech and media giants, says Channel 4 chief*, 21 August 2014, at: <http://www.theguardian.com/media/2014/aug/21/british-tv-industry-risk-us-tech-media-channel-4-david-abraham> .