

Submission to Ofcom consultation on
approaches to enforcement of COSTA

pact.

October 2014

1.1.1 Introduction

- 1) Pact is the UK trade association representing and promoting the commercial interests of independent feature film, television, digital, children's and animation media companies.
- 2) The UK independent television sector is one of the biggest in the world. Despite the difficult economic climate, independent television sector revenues have grown from £1.3 billion in 2005 to nearly £3.1 billion in 2013.¹
- 3) Driven by regulatory changes, investment in original British children's TV amongst the commercial public service broadcasters (PSBs) fell by 97% over the last decade, from £65m in 2002 to £2m in 2011.
- 4) Pact urges Ofcom to consider the economic impact of any additional options proposed in this consultation process on UK children's broadcasters who invest in original UK children's programming. This important public service sector is already facing economic pressures and we cannot allow further pressure on content budgets which have already fallen so dramatically in recent years.

¹ Pact Census Independent Production Sector Financial Census and Survey 2013, by Oliver & Ohlbaum Associates Ltd (July 2014)

Consultation questions

1.1 Pact's interest in this area is the impact of any proposed changes on the ability of UK broadcasters to invest in original content commissions. As such, this response focuses only on the first three consultation questions, regarding proposed changes to the assessment criteria, in particular, with regards to children's content.

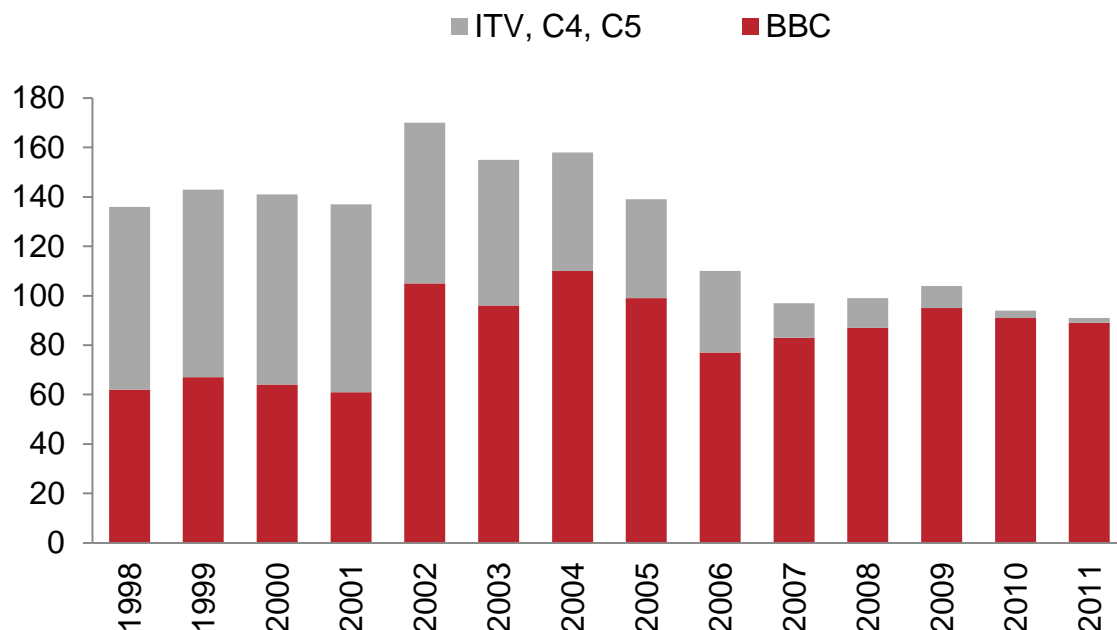
1.2 Our response does not address questions 4 – 13 of the consultation document, or the questions from the annex.

1. Do you agree with our assessment criteria as set out in Section 5?

1.3 Pact understands Ofcom's requirement to consider the consumer interests; practicality of enforcement and regulatory certainty when assessing each of the proposed options for change.

1.4 However, given the fragile nature of the UK children's TV production sector, which has seen year-on-year decline since 2008, we consider that an additional criteria should be considered by Ofcom in its assessment – the impact of each option on the financial viability of children's TV production.

PSB network spend on first-run children's originated hours, £m



Source: 'Give kids a break: the economic case for a children's TV tax credit', report for Pact by Communications Chambers, July 2014

2. What are your views on the enforcement approaches set out in Section 5?

- 1.5 Pact agrees that it is important that whichever option is adopted to determine a programme's schedule duration for the purpose of compliance with the AVMS Directive should be effective and consistent.
- 1.6 However, it is important that the fragile economic state of the UK children's production sector is taken into account when considering which option is most appropriate for the purpose of monitoring compliance with the COSTA regulations.
- 1.7 Together the PSBs have reduced investment in original British children's TV by 97% over the last decade, from £65m in 2002 to £2m in 2011. With a lower spend on original content, the proportion of repeats has increased substantially.
- 1.8 By 2011, 91% of children's content from the PSBs was repeats, compared to 39% in 1998. It is crucial that any regulatory changes consider the long-term viability of children's broadcasting on British TV.
- 1.9 Pact does not have a strong view on which approach Ofcom should adopt in order to monitor compliance with the AVMS requirements.
- 1.10 We are not aware of any issues arising from the use of the EPG approach to enforce the advertising scheduling restrictions with regards to TV programmes in general.
- 1.11 However, Pact does not support any changes which would have a negative economic impact on broadcasters' ability to invest in children's content.
- 1.12 We note that in section 5.47 of the consultation document, Ofcom estimates that the advertising revenues of children's broadcasters could be affected by – 13% if Ofcom was to schedule programmes in 31 minute EPG slots. We note Ofcom's calculations that – taking all sources of revenue into account – this is likely to have an approximate – 5% impact on overall channel revenues, which will vary between broadcasters. However, given the extreme pressures already affecting budgets for UK children's programming in the UK, we do not support any change which would have a further negative impact on channel revenues.

1.13 Ofcom notes in section 5.48 of the consultation document that a move to enabling broadcasters to only transmit internal breaks in children's programmes with a slot length of 35 minutes or longer EPG slots would have an even bigger negative effect on UK broadcasters advertising revenues – creating an estimated decline of 14% (with an estimated impact on overall channel revenues of -6%).

1.14 Adopting either of these approaches would make challenging commissioning even more difficult, and could result in a reduction in the amount of original UK children's programmes which appear on UK broadcasting channels.

1.15 Pact therefore opposes the proposal to move to an EPG compliance approach for children's programming.

3. What enforcement approach should Ofcom adopt for the purpose of enforcing COSTA rules on the scheduling of advertising during programmes? If you consider that Ofcom should use an approach other than the EPG approach or one of the TX approaches described in this document, please explain your preferred approach in detail?

1.16 Pact favours the TX approach over the EPG slot approach for the enforcement of advertising scheduling with regards to children's programming.

1.17 Given that Ofcom has not identified a negative impact of any of these approaches on advertising revenue for UK children's broadcasters, we do not have a preference on whether or not 'scheduled duration' should relate to a programme's slot, editorial content plus internal breaks or editorial content alone.

1.18 Pact urges Ofcom to consider the economic impact of any additional options proposed in this consultation process on UK children's broadcasters who invest in original UK children's programming. This important public service sector is already facing enormous economic pressures and we cannot allow further pressure on content budgets which have already fallen so dramatically in recent years.